

Small Business Administration

§ 107.660

REPORTING REQUIREMENTS FOR LICENSEES

§ 107.630 Requirement for Licensees to file financial statements with SBA (Form 468).

(a) *Annual filing of Form 468.* For each fiscal year, you must submit to SBA financial statements and supplementary information prepared on SBA Form 468. You must file Form 468 on or before the last day of the third month following the end of your fiscal year, except for the information required under paragraph (e) of this section, which must be filed on or before the last day of the fifth month following the end of your fiscal year.

(1) *Audit of Form 468.* The annual Form 468 must be audited by an independent public accountant acceptable to SBA.

(2) *Insurance requirement for public accountant.* Unless SBA approves otherwise, your independent public accountant must carry at least \$1,000,000 of Errors and Omissions insurance, or be self-insured and have a net worth of at least \$1,000,000.

(b) *Interim filings of Form 468.* When requested by SBA, you must file interim reports on Form 468. SBA may require you to file the entire form or only certain statements and schedules. You must file such reports on or before the last day of the month following the end of the reporting period. If you have an outstanding Leverage commitment from SBA, see the filing requirements in § 107.1220.

(c) *Standards for preparation of Form 468.* You must prepare SBA Form 468 in accordance with SBA's Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies.

(d) *Reporting of economic impact information on Form 468.* Your annual filing of SBA Form 468 must include an assessment of the economic impact of each Financing, specifying the full-time equivalent jobs created or retained, and the impact of the Financing on the revenues and profits of the business and on taxes paid by the business and its employees.

[61 FR 3189, Jan. 31, 1996, as amended at 82 FR 39340, Aug. 18, 2017]

§ 107.640 Requirement to file Portfolio Financing Reports (SBA Form 1031).

For each Financing of a Small Business (excluding guarantees), you must submit a Portfolio Financing Report on SBA Form 1031 within 30 days of the closing date.

§ 107.650 Requirement to report portfolio valuations to SBA.

You must determine the value of your Loans and Investments in accordance with § 107.503. You must report such valuations to SBA within 90 days of the end of the fiscal year in the case of annual valuations, and within 30 days following the close of other reporting periods. You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

§ 107.660 Other items required to be filed by Licensee with SBA.

(a) *Reports to owners.* You must give SBA a copy of any report you furnish to your investors, including any prospectus, letter, or other publication concerning your financial operations or those of any Portfolio Concern.

(b) *Documents filed with SEC.* You must give SBA a copy of any report, application or document you file with the Securities and Exchange Commission.

(c) *Litigation reports.* When you become a party to litigation or other proceedings, you must give SBA a report within 30 days that describes the proceedings and identifies the other parties involved and your relationship to them.

(1) The proceedings covered by this paragraph (c) include any action by you, or by your security holder(s) in a personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of yours for alleged breach of official duty.

(2) SBA may require you to submit copies of the pleadings and other documents SBA may specify.

(3) Where proceedings have been terminated by settlement or final judgment, you must promptly advise SBA of the terms.

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(4) This paragraph (c) does not apply to collection actions or proceedings to enforce your ordinary creditors' rights.

(d) *Notification of criminal charges.* If any officer, director, or general partner of the Licensee, or any other person who was required by SBA to complete a personal history statement in connection with your license, is charged with or convicted of any criminal offense other than a misdemeanor involving a minor motor vehicle violation, you must report the incident to SBA within 5 calendar days. Such report must fully describe the facts which pertain to the incident.

(e) *Other reports.* You must file any other reports that SBA may require by written directive.

[61 FR 3189, Jan. 31, 1996, as amended at 63 FR 5866, Feb. 5, 1998]

§ 107.665 Civil penalties.

Except as provided in § 107.670, a Licensee that violates any regulation or written directive issued by SBA, requiring the filing of any regular or special report pursuant to this part, shall be fined a civil penalty of not more than \$291 for each day the Licensee fails to file such report. The civil penalties provided for in this section shall accrue to the United States and may be recovered in a civil action brought by the SBA.

[81 FR 31491, May 19, 2016, as amended at 82 FR 9969, Feb. 9, 2017; 83 FR 7363, Feb. 21, 2018; 84 FR 12061, Apr. 1, 2019; 85 FR 13727, Mar. 10, 2020; 86 FR 52957, Sept. 24, 2021; 87 FR 28758, May 11, 2022]

§ 107.670 Application for exemption from civil penalty for late filing of reports.

(a) If it is impracticable to submit any required report within the time allowed, you may apply for an extension. The request for an extension must:

(1) Be filed before the reporting deadline;

(2) Certify to an extraordinary occurrence, not within your control, that makes timely filing of the report impracticable; and

(3) Be accompanied by written evidence of such occurrence, where appropriate.

(b) Upon receipt of your request, SBA may exempt you from the civil penalty

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stated in § 107.665, in such manner and under such conditions as SBA determines.

[61 FR 3189, Jan. 31, 1996, as amended at 81 FR 31491, May 19, 2016]

§ 107.680 Reporting changes in Licensee not subject to prior SBA approval.

(a) *Changes to be reported for post approval.* (1) This section applies to any changes in your Articles, ownership, capitalization, management, operating area, or investment policies that do not require SBA's prior approval. You must report such changes to SBA within 30 days for post approval. A processing fee of \$200 must accompany each request for post approval of new officers, directors, or Control Persons.

(2) *Exception for non-leveraged Licensees.* If you do not have outstanding Leverage or Earmarked Assets, you are not required to obtain post approval of new directors or new officers other than your chief operating officer; however, you must notify SBA of the new directors or officers within 30 days.

(b) *Approval by SBA.* You may consider any change submitted under this section § 107.680 to be approved unless SBA notifies you to the contrary within 90 days after receiving it. SBA's approval is contingent upon your full disclosure of all relevant facts and is subject to any conditions SBA may prescribe.

EXAMINATIONS OF LICENSEES BY SBA FOR REGULATORY COMPLIANCE

§ 107.690 Examinations.

SBA will examine all Licensees for the purpose of evaluating regulatory compliance.

§ 107.691 Responsibilities of Licensee during examination.

You must make all books, records and other pertinent documents and materials available for the examination, including any information required by the examiner under § 107.620(c). In addition, the agreement between you and the independent public accountant performing your audit must provide that any information in the accountant's working papers be made available to SBA upon request.