



March 25, 2025

The Honorable French Hill
Chairman
Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

The Honorable Maxine Waters
Ranking Member
Financial Services Committee
U.S. House of Representatives
Washington, DC 20515

Re: Financial Services Committee Hearing Entitled “Beyond Silicon Valley: Expanding Access to Capital Across America”

Dear Chairman Hill and Ranking Member Waters:

The Small Business Investor Alliance (SBIA) submits this letter for the scheduled March 25th hearing of the Financial Services Committee to examine legislation that would facilitate access to capital for small businesses and create opportunities for investors across America. SBIA commends the Committee for its ongoing work to support small business capital formation.

SBIA is a national association that develops, supports, and advocates on behalf of policies that benefit investment funds that invest in growing small and mid-size businesses, as well as the investors that provide capital to these funds. Our membership consists of the advisers of traditional 3(c)(1) and 3(c)(7) private funds, Small Business Investment Companies (“SBICs”), Rural Business Investment Companies (“RBICs”), funds registered as Business Development Companies (“BDCs”) under the Investment Company Act of 1940, and the investors that invest in these funds including banks, endowments, family offices, and fund of funds.

Small businesses remain an indispensable source of employment and new job creation in the U.S. economy. Recent data shows that there are over 34 million small businesses in the United States which account for over 45% of all jobs in the country.¹ Small businesses were also responsible for 55% of all jobs created from 2013-2023 and were critical to economic and job creation coming out of the COVID-19 pandemic.²

Small businesses can only grow if they have access to capital. For many businesses, SBIA members represent not just a source of funding, but a strategic partner that works hand-in-hand with businesses to help support their next phase of growth. A typical SBIA member serves businesses in parts of the country that are either overlooked by large institutions or have difficulty obtaining conventional bank financing. The long-term, patient capital that SBIA

¹ U.S. Small Business Administration Office of Advocacy (November 2024) <https://advocacy.sba.gov/2024/11/19/new-advocacy-report-shows-small-business-total-reaches-34-8-million-accounting-for-2-6-million-net-new-jobs-in-latest-year-of-data/>

² U.S. Bureau of Labor Statistics (May 2024) <https://www.bls.gov/opub/ted/2024/small-businesses-contributed-55-percent-of-the-total-net-job-creation-from-2013-to-2023.htm>

members provide is critical for small businesses and the local communities in which they operate.

Robust regulation is essential to maintain confidence and investor protection in the capital markets, however reforms are sometimes necessary to ensure that public policies adjust to market realities. As such, reforms are needed to ensure small businesses maintain diverse and reliable sources of capital.

SBIA is pleased that the Committee is advancing some of these targeted changes. Our views on some of these measures, as well as additional ideas for the Committee to consider, are discussed in more detail below.

H.R. 2225, the “Access to Small Business Investor Capital Act”

SBIA commends the work of Reps. Sherman, Huizenga, Garbarino, and Bynum who re-introduced the Access to Small Business Investor Capital Act on March 18th. This legislation addresses a fundamentally misleading disclosure requirement that overstates the actual costs of investment in business development companies (BDCs).

In 2006, the Securities and Exchange Commission (SEC) adopted a rule called acquired fund fees and expenses (AFFE). AFFE is intended to provide investors with a picture of total costs when a mutual fund they are invested in invests in other funds. However, when applied to BDCs, AFFE effectively “double counts” the expenses of a BDC investment. This is due to the unique structure of BDCs, which are a hybrid between an operating company and an investment fund. Investors are left ill-informed about the costs of an investment which negatively affects their ability to make sound decisions about their portfolio.

BDCs are an indispensable source of capital for thousands of middle market businesses in the United States. BDCs are required by law to invest 70% of their assets in “eligible portfolio companies” which are generally defined as U.S.-based businesses with a value of \$250 million or less. BDCs are also required by law to provide managerial assistance to their portfolio companies in order to help these businesses grow and prosper. Today there are roughly 139 BDCs with over \$300 billion invested in businesses across the country. SBIA maintains a database that catalogs overall investment by the BDC industry as well as a state-by-state breakdown of companies that receive investment from a BDC.³

Because of the treatment of BDCs under AFFE, certain index providers began dropping BDCs from indices, which in turn led to an outflow of institutional investor dollars in BDCs. This translates to a reduction in capital that BDCs can deploy to middle market and lower middle market businesses throughout the country. Exempting BDCs from the AFFE rule is necessary to incentive institutional investment back into BDCs.

Additionally, according to a recent report from Compass Point Research & Trading, there may also be substantial tax revenue generated if BDCs were exempted from AFFE.⁴ The report

³ <https://sbia.org/bdc/>

⁴ BDC 4Q24 Earnings Preview. Compass Point Trading (January 31, 2025)

estimates that if there were \$100 billion in additional BDC investment, Treasury could collect over \$5 billion in new tax revenue. As the report explains:

In the roundest of figures, \$100B of new BDC equity sold into taxable accounts would generate ~\$10B in annual dividends and ~\$2B in potential new tax annual payments. Assume the equity is levered 1:1 with debt and you can double the dividends and tax payments. The \$100B in new BDC debt obligations would also generate ~\$6B in interest payments and another potential ~\$1.2B in new annual tax payments. So roughly \$100B in new BDC equity into taxable accounts could conceivably increase tax payments by ~\$5.2B annually while encouraging small & medium-sized business growth and by definition job growth.

SBIA has appreciated the chance to work with both members of the aisle on this critical issue, and for the Committee including a draft version of the Access to Small Business Investor Capital Act during the Capital Markets Subcommittee hearing on February 26th. We are hopeful that Congress can work on a bipartisan basis to enact an AFPE fix in the coming months.

H.R. the Small Business Investor Capital Access Act

SBIA has appreciated the opportunity to work with Rep. Barr on this legislation. The Small Business Investor Capital Access Act would adjust for inflation the assets under management (AUM) threshold that triggers SEC registration for private funds.

In 2010, Congress replaced the longstanding private fund exemption from SEC registration requirements with a set of narrower exemption criteria. Amongst these criteria, advisers to private funds with less than \$150 million in AUM are exempt from full registration requirements. However, this \$150 million AUM threshold was too low when it was written in 2010 and it has never been raised nor even indexed for inflation since, notwithstanding the growth of the economy and evolution of the private capital markets since 2010.

Members of this Committee have previously recognized – on a bipartisan basis – that reporting requirements can place a disproportionate burden upon smaller funds. Rep. Barr’s legislation would adjust the \$150 million threshold for inflation since 2010 and annually thereafter. This would ensure that SEC regulation and the universe of registered private fund advisers keeps pace with the growth of the U.S. economy.

H.R. 2066, the Investing in All of America Act (Small Business Committee jurisdiction)

SBIA thanks Reps. Williams, Meuser, Scholten, and Velazquez for the work and leadership on the Small Business Committee to reintroduce the Investing in All of America Act. This bill is critical to increasing private capital investments in the parts of America that are often overlooked, especially small domestic manufacturers.

For more than 65 years, Small Business Investment Companies (SBICs) have been providing capital to American small businesses to help them expand operations and create jobs. Regulated by the U.S. Small Business Administration (SBA), SBICs utilize the talent of experienced private investment fund managers to achieve critical public policy objectives. Fund management teams that meet the SBA’s minimum requirements and successfully complete the application

process, access low-cost leverage up to two times the private capital they raise. These funds then invest in a portfolio of U.S. small businesses, creating jobs, fostering innovation, and fueling economic growth. Since inception, SBICs have invested over \$131 billion in small domestic businesses. SBIC capital is provided at no cost to taxpayers.

The Investing in All of America Act will increase access to capital with the following benefits:

- No new spending.
- No mandates.
- 100% of investment is in American small businesses.

This bill would increase the licensee commitment levels by a factor of inflation from the last time they were adjusted in statute and adjust for inflation annually thereafter. The second part of the proposal would modernize bonus leverage to increase investment in rural or low-income geographic areas. Bonus leverage would also be available for investments in small manufacturers and small businesses that are in industries identified as critical to national security. Finally, it includes an adjustment to how college and university investments are treated which will unlock significant new investment into SBICs to the benefit of both students and small businesses.

Amendments to the Investment Company Act to permit more investors in Small Business Investment Companies (SBICs)

Section 3(c)(1) of the Investment Company Act currently requires that SBICs with more than 99 investors register with the SEC. SBICs are small investment funds run by experienced managers and are licensed and regulated by the Small Business Administration (SBA).

While the 99-investor threshold is a numerical count as opposed to a dollar amount, it is unduly restrictive. There are already significant barriers of scale working against small funds and there is not a good reason to limit the number of investors into an otherwise highly regulated SBIC fund. SBICs need to balance the capital needs of the fund with the limit on the number of investors. The net result is that smaller investors face ever increasing minimums which constrain their ability to invest in small businesses.

SBIA recommends the Committee consider legislation that amends the 3(c)(1) limits for SBIC funds to the same investor threshold that currently applies to qualifying venture capital funds. This would provide regulatory parity while offering SBIC managers the opportunity to expand their investor base to provide more capital to domestic small businesses.

Legislation to amend the accredited investor definition

SBIA also supports several bills that would modernize the SEC's definition of an "accredited investor," or individuals eligible to invest in certain private offerings of securities. The current definition equates sophistication with wealth and generally prohibits individuals from investing in private offerings unless they meet minimum income or net worth thresholds. This has the effect of being both overinclusive and underinclusive at the same time – a wealthy person with no knowledge of the financial markets is free to invest in private offerings, while an experienced, sophisticated investor who may not be "wealthy" enough by the SEC's definition is prohibited from doing the same.

The reforms under the Fair Investment Opportunities for Professional Experts, Accredited Investor Definition Review Act, and other bills would expand the definition and permit an individual to demonstrate their financial sophistication and be deemed “accredited,” regardless of how much they are worth or how much they make per year.

This will help further democratize the financial markets and open investment opportunities for more households at a time when the private capital markets have substantially grown. It can also help investors manage overall risk of their investments by allowing them to have a mix of both private and publicly-traded investments. Furthermore, modernizing the accredited investor definition will increase capital access for private businesses that rely on institutions and accredited investors for capital.

Conclusion

SBIA thanks all members for their consideration of these views and looks forward to working with the Financial Services Committee on small business capital formation issues during this Congress.

Sincerely,

Brett Palmer



President
Small Business Investor Alliance