



January 16, 2024

**BY ELECTRONIC TRANSMISSION**

Chief Counsel’s Office, Attention: Comment Processing  
Office of the Comptroller of the Currency,  
400 7th Street SW, Suite 3E-218,  
Washington, DC 20219

Ann E. Misback, Secretary  
Board of Governors of the Federal Reserve System,  
20th Street and Constitution Avenue NW,  
Washington, DC 20551

James P. Sheesley, Assistant Executive Secretary  
Attention: Comments/Legal OES (RIN 3064-AF29),  
Federal Deposit Insurance Corporation,  
550 17th Street NW,  
Washington, DC 20429

RE: Regulatory Capital Rule – Docket ID OCC-2023-0008, No. R-1813, RIN 7100-AG64, FDIC RIN 3064-AF29

On behalf of its membership, the Small Business Investor Alliance (“SBIA”) urges all federal regulators to ensure that the final Regulatory Capital Rule does not depress – directly or indirectly - equity exposures by regulated financial institutions to public-purpose investments through federally-licensed Small Business Investment Companies (“SBICs”) and Rural Business Investment Companies (“RBICs”).

The SBIA is the national organization that represents small business funds and their investors, including SBICs, RBICs, small investment advisors, business development companies (“BDCs”), and the many banks and capital providers that invest in them. These funds make important economic development contributions to domestic job creation, retention, and improvement, including in under-served areas and among under-represented groups.

We applaud financial services regulators for safeguarding in the proposed rulemaking the 100 percent risk weight average for SBICs, which are described in section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682).<sup>1</sup>

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<sup>1</sup> 88 Fed Reg 64213-64214 (Sept. 18, 2023) (§ \_\_.141 Expanded simple risk-weight approach (ESRWA)). *See also* 12 CFR 3.152(b)(3)(iii)(B) (OCC); 12 CFR 217.152(b)(3)(iii)(B) (Board); 12 CFR 324.152(b)(3)(iii)(B) (FDIC).

SBICs, administered by the U.S. Small Business Administration (“SBA”), are highly regulated private funds that invest exclusively in domestic small businesses, which by statutory mission provide capital that is otherwise unavailable or in short supply to small businesses<sup>2</sup>. An investment group that seeks an SBIC license must establish a record of not only solid investment performance, but also a record of being a good actor to the small businesses they have backed. SBICs may only provide long-term capital, not short-term lending, and must do so with numerous meaningful protections to the small business that otherwise would not be provided.

An independent study prepared for the Library of Congress found that SBIC-backed small businesses created almost 3 million new jobs and supported an additional 6.5 million jobs over the 20-year period of their study.<sup>3</sup> Every one of the jobs created by each of those small businesses was a gain to the communities where they are located and to the broader regions from where they drew employees and to whom they provided goods and services. These businesses and jobs continue on, succeeding independently of SBICs after the investment is completed. These small businesses are not “propped up” or subsidized but transformed into stronger businesses because of SBIC investments.

We also remind regulators that Congress in 2020 clarified that SBICs that voluntarily return their licenses to the SBA because the fund has moved into its wind-down phase and is no longer making active investments are still considered active licensees and exempt under the Volcker Rule for any outstanding investments.<sup>4</sup> We ask you to integrate this expanded definition of an SBIC’s investment lifecycle into this rulemaking.

### **RBICs, Like SBICs are Public-Purpose Investment Vehicles**

Additionally, we urge financial services regulators to recognize expressly in the final rule that investments by financial institutions into rural business investment companies, which qualify as community development investments under section 24 (Eleventh) of the National Bank Act, also receive 100 percent ESRWA consideration. Like the SBA, the U.S. Department of Agriculture (“USDA”) licenses investment fund applicants as rural business investment companies (RBICs) to address the unmet capital needs of small enterprises primarily located in rural areas.<sup>5</sup>

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<sup>2</sup> Small Business Investment Act of 1958, Pub. L. 85-699 (Aug. 21, 1958). 15 U.S.C. 661.

<sup>3</sup> Paglia and Robinson, Measuring the Role of the SBIC Program in Small Business Job Creation, Report for the Library of Congress, at 4 (January 2017)  
<[https://www.sba.gov/sites/default/files/articles/SBA\\_SBIC\\_Jobs\\_Report.pdf](https://www.sba.gov/sites/default/files/articles/SBA_SBIC_Jobs_Report.pdf)>.

<sup>4</sup> 12 C.F.R. 351.10(c)(11). This exemption also applies to RBICs. Id. at (11)(iii).

<sup>5</sup> 7 U.S.C. 2009cc, *et seq.* The U.S. Department of Agriculture (“USDA”) operates the Rural Business Investment Program, a developmental venture capital program that includes licensing of RBICs for the purpose of promoting economic development and the creation of wealth and job opportunities in non-metropolitan areas and among residents living in those areas. Eligible Farm Credit System institutions may invest in RBICs. While allowed by statute, the RBIC program does not have budget authorization to offer its licensees a federal guarantee on the payment of debentures issued by an RBIC like the SBIC program.



Financial service regulators recently affirmed that investments into RBICs qualify for Community Reinvestment Act credit as community development under the term’s “economic development” prong because those are “activities undertaken consistent with federal, state, local or tribal government plans, programs, or initiatives that support small businesses.”<sup>6</sup> The congressionally-authorized RBIC program - like the SBIC program - promotes important public purpose goals that offer capital access to domestic small businesses that may otherwise have limited options from traditional sources.

SBICs and RBICs together are capital engines for job creation and small business growth throughout the United States.

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As always, SBIA appreciates the invitation to discuss these issues and looks forward to the opportunity to work together to ensure America’s small businesses have access to the capital they need.

Sincerely,

A handwritten signature in blue ink that reads "Brett Palmer".

Brett Palmer  
SBIA President

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<sup>6</sup> Title 12 CFR § \_\_\_\_,13 (c)(1). CRA regulations are provided in the following format: current 12 CFR \_\_\_\_,xx (*e.g.*, references to 12 CFR 25.12 (OCC), 12 CFR 228.12 (Board), and 12 CFR 345.12 (FDIC)).