

§ 107.500

13 CFR Ch. I (1-1-01 Edition)

§ 107.500 Lawful operations under the Act.

You must engage only in the activities contemplated by the Act and in no other activities.

§ 107.501 Identification as a Licensee.

You must display your SBIC license in a prominent location. You must also have a listed telephone number. Before collecting an application fee or extending Financing to a Small Business, you must obtain a written statement from the concern acknowledging its awareness that you are “a Federal licensee under the Small Business Investment Act of 1958, as amended.”

§ 107.502 Representations to the public.

You may not represent or imply to anyone that the SBA, the U.S. Government or any of its agencies or officers has approved any ownership interests you have issued or obligations you have incurred. Be certain to include a statement to this effect in any solicitation to investors. Example: You may not represent or imply that “SBA stands behind the Licensee” or that “Your capital is safe because SBA’s experts review proposed investments to make sure they are safe for the Licensee.”

§ 107.503 Licensee’s adoption of an approved valuation policy.

(a) *Valuation guidelines.* You must prepare, document and report the valuations of your Loans and Investments in accordance with the Valuation Guidelines for SBICs issued by SBA. These guidelines may be obtained from SBA’s Investment Division.

(b) *SBA approval of valuation policy.* You must have a written valuation policy approved by SBA for use in determining the value of your Loans and Investments. You must either:

(1) Adopt without change the model valuation policy set forth in section III of the Valuation Guidelines for SBICs; or

(2) Obtain SBA’s prior written approval of an alternative valuation policy.

(c) *Responsibility for valuations.* Your board of directors or general partner(s) will be solely responsible for adopting

your valuation policy and for using it to prepare valuations of your Loans and Investments for submission to SBA. If SBA reasonably believes that your valuations, individually or in the aggregate, are materially misstated, it reserves the right to require you to engage, at your expense, an independent third party, acceptable to SBA, to substantiate the valuations.

(d) *Frequency of valuations.* (1) If you have outstanding Leverage or Earmarked Assets, you must value your Loans and Investments at the end of the second quarter of your fiscal year, and at the end of your fiscal year.

(2) Otherwise, you must value your Loans and Investments only at your fiscal year end.

(3) On a case-by-case basis, SBA may require you to perform valuations more frequently.

(4) You must report material adverse changes in valuations at least quarterly, within thirty days following the close of the quarter.

(e) *Review of valuations by independent public accountant.* (1) For valuations performed as of the end of your fiscal year, your independent public accountant must review your valuation procedures and the implementation of such procedures, including adequacy of documentation.

(2) The independent public accountant’s report on your audited annual financial statements (SBA Form 468) must include a statement that your valuations were prepared in accordance with your approved valuation policy established in accordance with section 310(d)(2) of the Act.

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

§ 107.504 Equipment and office requirements.

(a) *Computer capability.* You must have a personal computer with a modem, and be able to use this equipment to prepare reports (using SBA-provided software) and transmit them to SBA. In addition, by March 31, 2000, you must have access to the Internet and the capability to send and receive electronic mail via the Internet.

(b) *Facsimile capability.* You must be able to receive facsimile messages 24 hours per day at your primary office.