

## § 108.550

### BORROWING BY NMVC COMPANIES FROM NON-SBA SOURCES

#### **§ 108.550 Prior approval of secured third-party debt of NMVC compa- nies.**

(a) *Definition.* In this section, “secured third-party debt” means any non-SBA debt secured by any of your assets, including secured guarantees and other contingent obligations that you voluntarily assume and secured lines of credit.

(b) *General rule.* You must get SBA’s written approval before you incur any secured third-party debt or refinance any debt with secured third-party debt, including any renewal of a secured line of credit, increase in the maximum amount available under a secured line of credit, or expansion of the scope of a security interest or lien. For purposes of this paragraph (b), “expansion of the scope of a security interest or lien” does not include the substitution of one asset or group of assets for another, provided the asset values (as reported on your most recent annual Form 468) are comparable.

(c) *Conditions for SBA approval.* As a condition of granting its approval under this section, SBA may impose such restrictions or limitations as it deems appropriate, taking into account your historical performance, current financial position, proposed terms of the secured debt and amount of aggregate debt you will have outstanding (including Leverage). SBA will not favorably consider any requests for approval which include a blanket lien on all your assets, or a security interest in your investor commitments in excess of 125 percent of the proposed borrowing.

(d) *Thirty-day approval.* Unless SBA notifies you otherwise within 30 days after it receives your request, you may consider your request automatically approved if:

- (1) You are in regulatory compliance;
- (2) The security interest in your assets is limited to either those assets being acquired with the borrowed funds or an asset coverage ratio of no more than 2:1;
- (3) Your request is for approval of a secured line of credit that would not cause your total outstanding bor-

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rowings (not including Leverage) to exceed 50 percent of your Leverageable Capital.

### VOLUNTARY DECREASE IN REGULATORY CAPITAL

#### **§ 108.585 Voluntary decrease in NMVC Company’s Regulatory Capital.**

You must obtain SBA’s prior written approval to reduce your Regulatory Capital by more than two percent in any fiscal year. At all times, you must retain sufficient Regulatory Capital to meet the minimum capital requirements in the Act and § 108.210, and sufficient Leverageable Capital to avoid having excess Leverage in violation of section 355(d) of the Act.

### **Subpart H—Recordkeeping, Re- porting, and Examination Re- quirements for NMVC Com- panies**

#### RECORDKEEPING REQUIREMENTS FOR NMVC COMPANIES

#### **§ 108.600 General requirement for NMVC Company 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 SBICs, unless SBA approves otherwise. You may obtain this chart of accounts from SBA.

(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.