

RBS and RUS, USDA

§ 4290.310

the power to Control, directly or indirectly, the management, board of directors, general partners, or members of the RBIC.

(4) Any portion of an unfunded commitment from an Institutional Investor with a net worth of less than \$10 million that exceeds 10 percent of such Institutional Investor's net worth.

(5) An unfunded commitment from an investor if the Secretary determines that the collectibility of the commitment is questionable.

(d) *Non-cash capital contributions.* Capital contributions in a form other than cash are subject to the limitations in § 4290.240 of this part.

(e) *Contributions with borrowed funds.* You may not accept any capital contribution made with funds borrowed by a Person seeking to own an equity interest (whether direct or indirect, beneficial or of record) of at least 10 percent of your Private Capital. This exclusion does not apply if:

(1) Such Person's net worth is at least twice the amount borrowed; or

(2) The Secretary gives his or her prior written approval of the capital contribution.

§ 4290.240 Limitations on non-cash capital contributions in Private Capital.

Non-cash capital contributions to a RBIC or Applicant are included in Private Capital only if they are approved by the Secretary and they fall into one of the following categories:

(a) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States having a term of no more than one year.

(b) Services rendered or to be rendered to you, priced at no more than their fair market value.

(c) Other non-cash assets approved by the Secretary.

Subpart D—Application and Approval Process for RBIC Licensing

§ 4290.300 When and how to apply for a RBIC License.

(a) *Notice of Funds Availability ("NOFA").* The Secretary will publish a NOFA in the FEDERAL REGISTER advising potential applicants of the avail-

ability of funds for the RBIC program and inviting the submission of applications. The NOFA may specify limitations, special rules, procedures, and restrictions for a particular funding round. When submitting its application, an Applicant must comply with both this part 4290 and any requirements specified in the NOFA, including the opening and closing dates for submission of an application.

(b) *Application form.* An Applicant must apply for a RBIC license using the application packet provided by the Secretary. Upon receipt of a completed application packet, the Secretary may request clarifying or technical information on the materials submitted as part of the application.

§ 4290.310 Contents of application.

Each Applicant must submit a complete application, including the following:

(a) *Management team experience.* The Applicant must provide information generally as to the background, capability, education, reputation and training of its management team, including general partners, managers, officers, key personnel, and investment committee and governing board members. The Applicant also must provide information specifically on these individuals' qualifications and reputation in the areas of Community Development Finance and/or Relevant Venture Capital Finance, including the impact of these individuals' activities in these areas.

(b) *Amount of Regulatory Capital.* The Applicant must indicate the amount of Regulatory Capital it has raised or proposes to raise, which amount must satisfy the requirements of § 4290.210(a) of this part, unless the Applicant indicates that it has raised or proposes to raise at least \$2,500,000 and is applying for an exception pursuant to § 4290.210(b) of this part and includes in its application—

(1) A showing of special circumstances and good cause for the exception;

(2) Will satisfy all eligibility criteria for licensing as a RBIC as set forth in § 4290.390(a) of this part, except the capital requirement specified in paragraph

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(a)(1) of that section, as determined solely by the Secretary;

(3) Has a viable business plan reasonably projecting profitable operations; and

(4) Has a reasonable timetable for achieving Regulatory Capital in an amount that satisfies the requirements of § 4290.210(a) of this part.

(c) *Comprehensive business plan.* The Applicant must submit a comprehensive business plan covering at least a five-year period, addressing the specific items described in § 4290.320, and which demonstrates that the Applicant has the capacity to operate successfully as a RBIC.

§ 4290.320 Contents of comprehensive business plan.

(a) *Plan for Developmental Venture Capital investing.* The Applicant must describe its plans and strategies for how it proposes to make successful Developmental Venture Capital investments in identified Rural Areas.

(b) *Working with Rural Area community-based organizations.* The Applicant must describe how it intends to work with community-based organizations and local entities (including local economic development companies, local lenders, and local investors) in order to facilitate its Developmental Venture Capital investments.

(c) *Market analysis.* The Applicant must provide an analysis of the Rural Areas in which it intends to focus its Developmental Venture Capital investments and Operational Assistance to Smaller Enterprises, demonstrating that the Applicant understands the market and the unmet Equity Capital needs in such areas and how its activities will meet these unmet needs and will have a positive economic impact on those areas. The Applicant also must analyze the extent of the demand in such areas for Developmental Venture Capital investments and any factors or trends that may affect the Applicant's ability to make effective Developmental Venture Capital investments.

(d) *Operational capacity and investment strategies.* The Applicant must submit information concerning its policies and procedures for underwriting and approving its Develop-

mental Venture Capital investments, monitoring its portfolio, and maintaining internal controls and operations.

(e) *Plan to raise Regulatory Capital.* The Applicant must include a detailed description of how it plans to raise its Regulatory Capital if it has not yet done so at the time of application. The Applicant must discuss its potential sources of Regulatory Capital, the estimated timing for raising such funds, and the extent of the expressions of interest to commit such funds to the Applicant.

(f) *Plan for providing Operational Assistance.* The Applicant must describe how it plans to use its grant funds to provide Operational Assistance to Smaller Enterprises in which it makes or expects to make Developmental Venture Capital investments. Its plan must address the types of Operational Assistance it proposes to provide, and how it plans to provide the Operational Assistance through the use of licensed professionals, when necessary, either from its own staff or from outside entities.

(g) *Projected amount of investment in Rural Areas.* The Applicant must describe how it proposes to meet the requirements set forth in § 4290.700. An Applicant must project the amount of its total Regulatory Capital and Leverage that it proposes to invest in Smaller Enterprises and in Rural Business Concerns that are not Smaller Enterprises. The Applicant also must describe the amount of its total Regulatory Capital and Leverage that it proposes to invest in Urban Area Investments.

(h) *Projected impact.* The Applicant must describe the criteria and economic measurements to be used to evaluate whether and to what extent it has met the objectives of the RBIC program. It must include:

(1) A description of the extent to which it will concentrate its Developmental Venture Capital investments and Operational Assistance activities in identified Rural Areas;

(2) An estimate of the economic development benefits to be created within identified Rural Areas over the next five years or more as a result of its activities;