

117TH CONGRESS
1ST SESSION

H. R. 5225

To amend the Small Business Investment Act of 1958 to establish a Micro-SBIC program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 10, 2021

Ms. HOULAHAN introduced the following bill; which was referred to the Committee on Small Business

A BILL

To amend the Small Business Investment Act of 1958 to establish a Micro-SBIC program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Micro-SBIC and
5 Emerging Managers Program Act of 2021”.

6 **SEC. 2. MICRO-SBIC LICENSE.**

7 Part A of title III of the Small Business Investment
8 Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding
9 at the end the following new sections:

1 **“SEC. 321. MICRO-SBIC LICENSE.**

2 “(a) ESTABLISHMENT.—The Administrator shall es-
3 tablish a program to issue Micro-SBIC licenses to appli-
4 cants for the purpose of making investments in and loans
5 to qualified small business concerns.

6 “(b) ADMINISTRATION.—To the extent practicable,
7 the Administrator shall administer the program estab-
8 lished under this section in a similar manner to the pro-
9 gram established under section 301.

10 “(c) APPLICATIONS.—An applicant shall submit an
11 application to the Administrator at such time, in such
12 manner, and containing such information as the Adminis-
13 trator may require, including—

14 “(1) evidence that the applicant holds private
15 capital of not less than \$5,000,000; and

16 “(2) evidence that the management of the ap-
17 plicant has significant business expertise relevant to
18 the applicant’s investment strategy.

19 “(d) SELECTION OF MICRO-SBICs.—The Adminis-
20 trator shall select applicants to be granted a license to op-
21 erate a Micro-SBIC under this section.

22 “(e) GUIDANCE.—The Administrator shall issue
23 guidance that encourages the participation of nontradi-
24 tional applicants by reducing requirements for applicants.
25 Such guidance—

1 “(1) may include the requirements established
2 under part 107 of title 13, Code of Federal Regula-
3 tions; and

4 “(2) shall allow applicants who have not pre-
5 viously managed an investment company to dem-
6 onstrate significant business expertise relevant to
7 the applicant’s investment strategy by reliance upon
8 the presence of at least two track record investment
9 committee members or participation in the Emerg-
10 ing Managers Program established under section
11 322.

12 “(f) PROCEDURES FOR ISSUING LICENSES.—

13 “(1) STATUS.—Not later than 90 days after the
14 initial receipt by the Administrator of an application
15 under this subsection, the Administrator shall pro-
16 vide the applicant with a written report detailing the
17 status of the application and any requirements re-
18 maining for the completion of the application.

19 “(2) APPROVAL OR DISAPPROVAL.—Except as
20 provided in paragraph (3) and within a reasonable
21 time after providing the report under paragraph (1),
22 and in accordance with such requirements as the
23 Administrator may provide, the Administrator
24 shall—

1 “(A) approve the application and issue the
2 applicant a license to operate as a Micro-SBIC;
3 or

4 “(B) disapprove the application and notify
5 the applicant in writing of the disapproval, in-
6 cluding reasons for the disapproval.

7 “(3) PROVISIONAL APPROVAL.—

8 “(A) IN GENERAL.—The Administrator
9 may provide provisional approval to an appli-
10 cant to—

11 “(i) encourage investment company
12 applicants with an investment mandate
13 from the committed private market capital
14 of the investment company that does not
15 conform to the requirements relating to
16 private capital in subsection (c) at the time
17 of application;

18 “(ii) allow the applicant to more effec-
19 tively raise capital commitments from the
20 private market by such provisional ap-
21 proval; and

22 “(iii) allow the applicant to more pre-
23 cisely request the desired amount of lever-
24 age from the Administrator pending the

1 securing of capital from private market in-
2 vestors.

3 “(B) LIMITATION.—An applicant provided
4 provisional approval under subparagraph (A)
5 shall apply for approval under paragraph (2)
6 not later than 12 months after being granted
7 such provisional approval.

8 “(g) MAXIMUM LEVERAGE.—

9 “(1) IN GENERAL.—The maximum amount of
10 outstanding leverage made available to any one
11 Micro-SBIC may not exceed—

12 “(A) 50 percent of the private capital of
13 such Micro-SBIC, not to exceed \$25,000,000;
14 or

15 “(B) in the case of a Micro-SBIC owned
16 by persons that also own a small business in-
17 vestment company licensed under section 301,
18 100 percent of the private capital of such
19 Micro-SBIC, not to exceed \$50,000,000.

20 “(2) INVESTMENTS IN CERTAIN BUSINESS.—

21 “(A) IN GENERAL.—In calculating the out-
22 standing leverage of a Micro-SBIC for purposes
23 of subparagraph (A), the Administrator shall
24 exclude the amount of the costs basis of any in-

1 vestments made in an entity described in sub-
2 paragraph (B) in an amount not to exceed—

3 “(i) \$25,000,000; or

4 “(ii) in the case of a Micro-SBIC
5 owned by persons that also own a small
6 business investment company licensed
7 under section 301, \$50,000,000.

8 “(B) ENTITIES.—An entity described in
9 this subparagraph is—

10 “(i) a Special Competitive Oppor-
11 tunity Gap Business (as defined by the Ad-
12 ministrator);

13 “(ii) a small business concern located
14 in a HUBZone;

15 “(iii) a small business concern located
16 in a community that has been designated
17 as an empowerment zone or an enterprise
18 community under section 1391 of the In-
19 ternal Revenue Code of 1986;

20 “(iv) a small business concern located
21 in a community that has been designated
22 as a promise zone by the Secretary of
23 Housing and Urban Development; or

24 “(v) a small business concern located
25 in a community that has been designated

1 as a qualified opportunity zone under sec-
2 tion 1400Z-1 of the Internal Revenue
3 Code of 1986.

4 “(3) PORTFOLIO DIVERSIFICATION.—The Ad-
5 ministrator shall revise section 107.740 of title 13,
6 Code of Federal Regulations, to provide for a higher
7 ‘overline limit’ for a Micro-SBIC compared to other
8 small business investment companies.

9 “(h) REPORT.—The Administrator shall include in
10 the annual report required under section 10(a) of the
11 Small Business Act a description of—

12 “(1) the number of applications received under
13 this subsection, including the number of applications
14 received from applicants the management of which is
15 at least majority composed of socially disadvantaged
16 individuals or veterans;

17 “(2) the number of licenses issued under this
18 section, including the number of such licenses issued
19 to applicants the management of which is at least
20 majority composed of socially disadvantaged individ-
21 uals or veterans;

22 “(3) the number of investments made by Micro-
23 SBICs in Special Competitive Opportunity Gap
24 Businesses, disaggregated by the type of Special
25 Competitive Opportunity Gap Business; and

1 “(4) the number of investments made by Micro-
2 SBICs, disaggregated by debt, debt with equity fea-
3 tures, and equity only.

4 “(i) DEFINITIONS.—In this section:

5 “(1) APPLICANT.—The term ‘applicant’ means
6 an incorporated body, a limited liability corporation,
7 or a limited partnership organized and chartered or
8 otherwise existing under State law solely for the pur-
9 pose of securing a Micro-SBIC license to perform
10 the functions and conduct the activities described
11 under this section.

12 “(2) MANAGEMENT.—The term ‘management’
13 means a general partner of an applicant or member
14 of the investment committee of the applicant.

15 “(3) MICRO-SBIC.—The term ‘Micro-SBIC’
16 means a company issued a license to operate pursu-
17 ant to the requirements of this section.

18 “(4) MICRO-SBIC LICENSE.—The term ‘Micro-
19 SBIC license’ means a license issued to an applicant
20 to operate pursuant to the requirements of this sec-
21 tion.

22 “(5) SOCIALLY DISADVANTAGED INDIVIDUAL.—
23 The term ‘socially disadvantaged individual’—

24 “(A) has the meaning given in section
25 8(a)(5) of the Small Business Act; and

1 “(B) includes an individual who is a
2 woman.

3 “(6) TRACK RECORD INVESTMENT COMMITTEE
4 MEMBER.—The term ‘track record investment com-
5 mittee member’ means a current or former small
6 business investment company or lower-middle mar-
7 ket private equity fund manager with the knowledge,
8 experience, and capability necessary to serve as man-
9 agement for an applicant.

10 “(7) VETERAN.—The term ‘veteran’ has the
11 meaning given under section 3(q)(4) of the Small
12 Business Act.

13 **“SEC. 322. EMERGING MANAGERS PROGRAM.**

14 “(a) ESTABLISHMENT.—The Administrator shall es-
15 tablish a program to be known as the ‘Emerging Managers
16 Program’ under which a covered manager may enter into
17 a written agreement approved by the Administrator to
18 provide guidance and assistance to an applicant for a
19 small business investment company license or a Micro-
20 SBIC license that is managed by not less than two individ-
21 uals who are emerging managers.

22 “(b) LEVERAGE.—Leverage made available to a small
23 business investment company or Micro-SBIC that is man-
24 aged by at least two individuals who are emerging man-

1 agers shall not be considered as part of the leverage made
2 available to a covered manager.

3 “(c) REPORT.—Not later than 5 years after the date
4 of enactment of this Act, the Administrator shall submit
5 to the Committee on Small Business of the House of Rep-
6 resentatives and the Committee on Small Business and
7 Entrepreneurship of the Senate a report evaluating the
8 effectiveness of the Emerging Managers Program estab-
9 lished under this section, including with respect to increas-
10 ing the number of applications received by and licenses
11 issued to emerging managers.

12 “(d) DEFINITIONS.—In this subsection:

13 “(1) COVERED MANAGER.—The term ‘covered
14 manager’ means—

15 “(A) a manager with substantial experi-
16 ence in operating small business investment
17 companies; and

18 “(B) as determined by the Administrator,
19 a manager of a private equity fund or venture
20 fund that is not licensed as a small business in-
21 vestment company.

22 “(2) EMERGING MANAGER.—The term ‘emerg-
23 ing manager’ means an individual with an invest-

1 ment record of less than 10 years, or with a focus
2 on underserved markets.”.

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