

amount equivalent to 50 or more percent of the financing supplied or committed by Licensee is used for land improvement, new construction, renovation, or other types of improvement or development, and (2) such improvement or development is undertaken within one (1) year from date of acquisition or date of Licensee's financing, whichever is later.

(d) *Purposes contrary to the public interest.* Purposes contrary to the public interest, including but not limited to gambling enterprises and activities, and any purpose which would encourage monopoly or be inconsistent with accepted standards of free competitive enterprise.

(e) *Foreign investment.* Use outside the United States: *Provided, however,* That a Licensee may provide funds to a small business concern which is subject to state or federal jurisdiction, (1) for use in the domestic production of products for distribution abroad, or to acquire abroad materials for such operation or (2) for use in its branch operations abroad or for transfer to its controlled foreign subsidiary; so long as the major portion of the assets and activities of such concern, after funds are so employed, remains within the territorial jurisdiction of the States.

(f) *Passive businesses.* Any person that is not engaged in a business operation conducted as a regular and continuous activity.

(g) *Licensee associated supplier.* A small business concern which purchases goods or services from a supplier; which supplier is an Associate of the Licensee, if 50 percent or more of the funds (or funds of the small business concern released by such financing) are used by the concern to purchase goods or services from such supplier.

(h) *Alcoholic beverages.* Enterprises which derive a substantial portion of their net sales from the sale of alcoholic beverages, where such funds represent proceeds of loans obtained from SBA. Accordingly, within thirty (30) days after the disbursement of any loan funds to Licensee, and thereafter during the period in which any part of such loan, remains unpaid, the Licensee shall maintain assets consisting of cash, eligible Government obligations, and portfolio investments and loans involving enterprises which do not derive a substantial portion of their net sales from the sale of alcoholic beverages (exclusive of all investments and loans already in the Licensee's portfolio at the time that the proceeds of such loans were disbursed), equal in face value to no less than the unpaid principal of such loan.

(i) *Agriculture.* Concerns engaged solely or primarily in the production of agricultural commodities.

§ 107.1002 Capital impairment.

(a) Each Licensee shall maintain at all times an unimpaired capital. An impairment shall be deemed to exist when the retained earnings deficit exceeds fifty (50%) percent of the private paid-in capital and paid-in surplus. Treasury stock shall not be considered as part of private paid-in capital and paid-in surplus.

(b) A debtor Licensee shall promptly inform SBA when its retained earnings deficit exceeds thirty-five (35) percent * * *.

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Mr. MITCHELL. I have one question concerning a proposed capital bank. I believe recent legislation requires SBA to study this matter and report to the Congress on it when they are prepared, or within a certain time. You probably are not prepared yet. But do you have anything you can say to the committee concerning a proposed capital bank?

Mr. BROWN. All I can say—the Administrator might have something to add—is that we are happy to see the work being done in this area, both by the industry and some work, cooperation being given by the Small Business Administration. And we hope that this will be something that will be taking place at some time in the not too distant future. We feel like it would be good for this kind of private capital injection into the program. I do not know whether the Administrator has anything else to add.

Mr. MOOT. I think that is a proper statement, Mr. Mitchell.

Mr. MITCHELL. That is all I have.