

apply to taxable years beginning on or after the date on which the joint regulations under the section are promulgated by SBA and the Treasury Department; and the amendments of sections 2 and 6 (treatment of SBIC investments) and of section 4 (regulated investment company provisions) shall apply to SBIC taxable years beginning on or after April 1, 1968.

II. SUMMARY: SMALL BUSINESS INVESTMENT ACT AMENDMENTS OF 1967

(Public Law 90-104 marked a redesign of the SBIC program established by the Small Business Investment Act of 1958)

1. SBA authorized to lend to SBIC's on better terms.

The 1967 Amendments allow SBA to make 15-year loans to SBIC's on a subordinated basis at a rate of interest which will at least cover the cost of money to the Treasury. The length of the loan, plus its subordination, will permit many SBICs to obtain more resources by borrowing also from private sources.

2. SBA may lend more to larger SBICs

Prior to 1967, the program discriminated against medium size and larger SBICs, since full leverage from the government was available only up to \$700,000 in private capital. The new version permits the 2-to-1 borrowing from SBA for SBICs with up to \$3.75-million in private capital.

3. SBA may give additional incentives to equity-oriented SBICs

The new law allows SBA to make further loans to SBICs which place at least 65% of all their funds in "venture capital" financings. Such investments are usually riskier than straight loans, but meet an area of special need by American small business.

4. Banks may invest more of their capital in SBICs

The new law allows commercial banks to put up to 5% of their capital in SBICs—as opposed to the previous limit of 2%. At the same time, no bank may henceforth own more than 49% of the stock of an SBIC (grandfather rights are given to present licensees).

5. SBA given the right to appoint an SBIC Advisory Council

This has been done and should give continuity to the program.

6. SBA must examine every SBIC at least once each year

7. SBA, Treasury, SEC, and the Bureau of the Budget

They are all directed to report to Congress on areas of small business concern within their fields of competence.

NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES

WASHINGTON, D.C., June 13, 1968.

Mr. JOE L. EVINS,
Chairman, Select Committee on Small Business,
House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: In his letter of June 12, Walter Stults, Executive Director of NASBIC, stated that I would be sending you a copy of the Association's application to the Securities and Exchange Commission for exemptions for SBICs from the Investment Company Act of 1940. A copy of that application is enclosed.

During the hearings before your Committee on May 22, both Mr. Conte and Mr. Morton requested additional information from the NASBIC representatives with respect to overlap between the Small Business Administration, the Internal Revenue Service and SEC. The enclosed application to SEC will highlight some of the principal areas of overlaps between SEC and SBA. First and foremost, both Agencies regulate SBICs registered under the Investment Company Act of 1940 in a number of areas. The two Agencies for example have differing reporting, fidelity bond and safekeeping requirements.

More onerous than these areas are those relating to stock options and affiliated transactions. While SBA quite properly permits privately owned SBICs to issue qualified stock options to officers and employees of SBICs, the SEC staff takes the position that the provisions of Sections 18 and 23 of the Investment Company Act of 1940 will not permit the issuance of stock options by publicly owned SBICs to their personnel. This is a particularly critical problem for our industry where the