

Signature

NASBIC has duly caused this Application to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Washington, District of Columbia, on the 15th day of March, 1968.

NATIONAL ASSOCIATION OF SMALL
BUSINESS INVESTMENT COMPANIES
By ELLIOTT DAVIS.

Verification

DISTRICT OF COLUMBIA, SS:

The undersigned, being duly sworn, deposes and says that he has duly executed the attached Application dated March 15, 1968, for and on behalf of the National Association of Small Business Investment Companies, that he is the President of said Association, and that all action by the Executive Committee and other bodies necessary to authorize deponent to execute and file such Application has been taken. Deponent further says that he is familiar with said Application and the contents thereof, and that the facts therein set forth are true to the best of his knowledge, information and belief.

ELLIOTT DAVIS.

Subscribed and sworn to before me, a Notary Public, this 15th day of March, 1968.

BERYL D. HUNDT, *Notary Public*.

My commission expires January 14, 1973.

EXHIBIT A

NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES,
Washington, D.C., November 21, 1967.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C.

GENTLEMEN: The following comments are in response to the invitation contained in Investment Company Act Release No. 5128 issued October 13, 1967.

Subparagraph (d) of the proposed Rule 17d-1 would exempt from its application certain transactions but would then exclude from this exemption any situation where the investment company "controls" the portfolio concern.

Investment Company Act Release No. 3968 called attention to the fact that provisions of agreements between investment companies and portfolio companies and their affiliated persons might result in the investment company being regarded as in control of the portfolio concern.

By the very nature of their operations, small business investment companies generally enter into very carefully drawn agreements designed to protect their investments in portfolio concerns. The proposed Rule 17d-1, coupled with the Commission's rules and interpretations relating to "control", the admonitions contained in Investment Company Act Release No. 3968, and the ever-present potential liabilities arising under Section 47 of the 1940 Act, would require a small business investment company to apply for so many more orders of the Commission that compliance would become a major burden for both the industry and the Commission.

The Small Business Administration has promulgated a regulation to govern small business investment companies in situations giving rise to possible conflicts of interest (Section 107.716, Code of Federal Regulations). That regulation was promulgated pursuant to a specific statutory direction enacted in 1964 and now contained in Section 312 of the Small Business Investment Act of 1958, as amended.

In our view, the proposed Rule 17d-1 does not take into account the operating needs of our industry, the need for certainty, and the need to avoid overlapping regulations. We believe that the SBA rule is sufficient for all purposes related to your jurisdiction as well as that of SBA.

Accordingly, we recommend that a small business investment company registered under the Investment Company Act of 1940 be exempted not only from the proposed Rule 17d-1 but from the application of all of Section 17 of the 1940 Act and all Commission rules promulgated thereunder, provided such small business investment company is in compliance with SBA Reg. 107.716.

Representatives of this Association appeared yesterday before the full Commission to request a careful review of areas in which SEC and SBA rules and