

Capital company may not acquire or issue commitments for securities under this subchapter for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

(A) the regulatory capital of the covered New Markets Venture Capital company; and

(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.

(Pub. L. 85-699, title III, §355, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-658; amended Pub. L. 111-240, title I, §1115, Sept. 27, 2010, 124 Stat. 2508.)

#### AMENDMENTS

2010—Subsec. (e). Pub. L. 111-240 added subsec. (e).

### § 689e. Issuance and guarantee of trust certificates

#### (a) Issuance

The Administrator may issue trust certificates representing ownership of all or a fractional part of debentures issued by a New Markets Venture Capital company and guaranteed by the Administrator under this part, if such certificates are based on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

#### (b) Guarantee

##### (1) In general

The Administrator may, under such terms and conditions as it deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

##### (2) Limitation

Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

##### (3) Prepayment or default

In the event that a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool. Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administrator only through the date of payment of the guarantee. At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

#### (c) Full faith and credit of the United States

The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee of a trust certificate issued by the Administrator or its agents under this section.

#### (d) Fees

The Administrator shall not collect a fee for any guarantee of a trust certificate under this

section, but any agent of the Administrator may collect a fee approved by the Administrator for the functions described in subsection (f)(2) of this section.

### (e) Subrogation and ownership rights

#### (1) Subrogation

In the event the Administrator pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

#### (2) Ownership rights

No Federal, State, or local law shall preclude or limit the exercise by the Administrator of its ownership rights in the debentures residing in a trust or pool against which trust certificates are issued under this section.

### (f) Management and administration

#### (1) Registration

The Administrator may provide for a central registration of all trust certificates issued under this section.

#### (2) Contracting of functions

##### (A) In general

The Administrator may contract with an agent or agents to carry out on behalf of the Administrator the pooling and the central registration functions provided for in this section including, notwithstanding any other provision of law—

(i) maintenance, on behalf of and under the direction of the Administrator, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

##### (B) Fidelity bond or insurance requirement

Any agent performing functions on behalf of the Administrator under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administrator determines to be necessary to fully protect the interests of the United States.

#### (3) Regulation of brokers and dealers

The Administrator may regulate brokers and dealers in trust certificates issued under this section.

#### (4) Electronic registration

Nothing in this subsection may be construed to prohibit the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

(Pub. L. 85-699, title III, §356, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-658.)

### § 689f. Fees

Except as provided in section 689e(d) of this title, the Administrator may charge such fees as it deems appropriate with respect to any guarantee or grant issued under this part.

(Pub. L. 85-699, title III, §357, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-660.)

**§ 689g. Operational assistance grants****(a) In general****(1) Authority**

In accordance with this section, the Administrator may make grants to New Markets Venture Capital companies and to other entities, as authorized by this part, to provide operational assistance to smaller enterprises financed, or expected to be financed, by such companies or other entities.

**(2) Terms**

Grants made under this subsection shall be made over a multiyear period not to exceed 10 years, under such other terms as the Administrator may require.

**(3) Grants to specialized small business investment companies****(A) Authority**

In accordance with this section, the Administrator may make grants to specialized small business investment companies to provide operational assistance to smaller enterprises financed, or expected to be financed, by such companies after the effective date of the New Markets Venture Capital Program Act of 2000.

**(B) Use of funds**

The proceeds of a grant made under this paragraph may be used by the company receiving such grant only to provide operational assistance in connection with an equity investment (made with capital raised after the effective date of the New Markets Venture Capital Program Act of 2000) in a business located in a low-income geographic area.

**(C) Submission of plans**

A specialized small business investment company shall be eligible for a grant under this section only if the company submits to the Administrator, in such form and manner as the Administrator may require, a plan for use of the grant.

**(4) Grant amount****(A) New Markets Venture Capital companies**

The amount of a grant made under this subsection to a New Markets Venture Capital company shall be equal to the resources (in cash or in kind) raised by the company under section 689c(d)(2) of this title.

**(B) Other entities**

The amount of a grant made under this subsection to any entity other than a New Markets Venture Capital company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to New Market Venture Capital companies set forth in section 689c(d)(2) of this title.

**(5) Pro rata reductions**

If the amount made available to carry out this section is insufficient for the Administrator to provide grants in the amounts provided for in paragraph (4), the Administrator

shall make pro rata reductions in the amounts otherwise payable to each company and entity under such paragraph.

**(b) Supplemental grants****(1) In general**

The Administrator may make supplemental grants to New Markets Venture Capital companies and to other entities, as authorized by this part under such terms as the Administrator may require, to provide additional operational assistance to smaller enterprises financed, or expected to be financed, by the companies.

**(2) Matching requirement**

The Administrator may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide from resources (in a<sup>1</sup> cash or in kind), other than<sup>2</sup> those provided by the Administrator, a matching contribution equal to the amount of the supplemental grant.

**(c) Limitation**

None of the assistance made available under this section may be used for any overhead or general and administrative expense of a New Markets Venture Capital company or a specialized small business investment company.

(Pub. L. 85-699, title III, §358, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-660.)

## REFERENCES IN TEXT

The effective date of the New Markets Venture Capital Program Act of 2000, referred to in subsec. (a)(3)(A), (B), probably means the date of enactment of section 1 of H.R. 5663, as enacted by Pub. L. 106-554, §1(a)(8), which was approved Dec. 21, 2000.

**§ 689h. Bank participation****(a) In general**

Except as provided in subsection (b) of this section, any national bank, any member bank of the Federal Reserve System, and (to the extent permitted under applicable State law) any insured bank that is not a member of such system, may invest in any New Markets Venture Capital company, or in any entity established to invest solely in New Markets Venture Capital companies.

**(b) Limitation**

No bank described in subsection (a) of this section may make investments described in such subsection that are greater than 5 percent of the capital and surplus of the bank.

(Pub. L. 85-699, title III, §359, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-661.)

**§ 689i. Federal Financing Bank**

Section 687k of this title shall not apply to any debenture issued by a New Markets Venture Capital company under this part.

(Pub. L. 85-699, title III, §360, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-661.)

<sup>1</sup> So in original. The article probably should not appear.

<sup>2</sup> So in original. Probably should be "than".