

ing of special circumstances and good cause, consider an applicant to have satisfied the requirements of subparagraph (A) if the applicant has—

(i) a viable plan that reasonably projects the capacity of the applicant to raise the amount (in cash or in-kind) required under subparagraph (A); and

(ii) binding commitments in an amount equal to not less than 20 percent of the total amount required under paragraph (A).

**(C) Limitation**

In order to comply with the requirements of subparagraphs (A) and (B), the total amount of a company's in-kind contributions may not exceed 50 percent of the company's total contributions.

**(e) Final approval; designation**

The Administrator shall, with respect to each applicant conditionally approved to operate as a New Markets Venture Capital company under subsection (c), either—

(1) grant final approval to the applicant to operate as a New Markets Venture Capital company under this part and designate the applicant as such a company, if the applicant—

(A) satisfies the requirements of subsection (d) on or before the expiration of the time period described in that subsection; and

(B) enters into a participation agreement with the Administrator; or

(2) if the applicant fails to satisfy the requirements of subsection (d) on or before the expiration of the time period described in that subsection, revoke the conditional approval granted under that subsection.

(Pub. L. 85-699, title III, §354, as added Pub. L. 106-554, §1(a)(8) [§1(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-655.)

**§ 689d. Debentures**

**(a) In general**

The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any New Markets Venture Capital company.

**(b) Terms and conditions**

The Administrator may make guarantees under this section on such terms and conditions as it deems appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

**(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 under this part.

**(d) Maximum guarantee**

**(1) In general**

Under this section, the Administrator may guarantee the debentures issued by a New Markets Venture Capital company only to be<sup>1</sup> extent that the total face amount of out-

standing guaranteed debentures of such company does not exceed 150 percent of the private capital of the company, as determined by the Administrator.

**(2) Treatment of certain Federal funds**

For the purposes of paragraph (1), private capital shall include capital that is considered to be Federal funds, if such capital is contributed by an investor other than an agency or department of the Federal Government.

**(e) Investment limitations**

**(1) Definition**

In this subsection, the term “covered New Markets Venture Capital company” means a New Markets Venture Capital company—

(A) granted final approval by the Administrator under section 689c(e) of this title on or after March 1, 2002; and

(B) that has obtained a financing from the Administrator.

**(2) Limitation**

Except to the extent approved by the Administrator, a covered New Markets Venture 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

<sup>1</sup> So in original. Probably should be “the”.

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 pre-paid 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).

**(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.