



BILLING CODE: 3410-XY-U

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Compliance Examination Procedures for Rural Business

Investment Companies under the Rural Business Investment Program

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This Notice identifies the examination procedures that the Rural Business-Cooperative Service (the Agency) will use for non-leveraged Rural Business Investment Companies (RBICs) within the Rural Business Investment Program (RBIP).

FOR FURTHER INFORMATION CONTACT: Information on this Notice may be obtained by contacting David Chesnick, Program Manager, Rural Business Investment Program, Specialty Programs Division, U.S. Department of Agriculture, Room 4221-S, 1400 Independence Avenue SW., Washington, DC 20250-3226, at (202) 690-0433. You may also obtain detailed information on RBIP found on the Agency's Web site at <http://www.rd.usda.gov/programs-services/rural-business-investment-program>.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 defines "collection of information" as a requirement for "answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons" (44 U.S.C. 3502(3)(A)). The collection requirement associated with this Notice is expected to receive less than 10 respondents and therefore the Act does not apply.

Overview Information

Federal Agency Name. Rural Business-Cooperative Service.

Opportunity Title. Rural Business Investment Program for Non-leveraged RBICs.

Announcement Type. Subsequent announcement.

Catalog of Federal Domestic Assistance (CFDA) Number. The CFDA number for the program impacted by this action is 10.860, RBIP.

Dates. The Agency will conduct compliance exams on an annual basis, or until such time the Agency determines otherwise.

Availability of Notice. This Notice is

available on the USDA Rural Development Web site at:
<http://www.rd.usda.gov/programs-services/rural-business-investment-program>.

I. Background

Subtitle H of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C.2009cc *et seq.*) establishes RBIP.

The terms defined in 7 CFR part 4290 are applicable to this Notice.

The RBIP promotes rural economic development through venture capital investment by for-profit RBICs. The mission of the RBIP is to encourage economic growth, innovation, and entrepreneurship by sharing in the financial success of privately owned and managed venture capital investment funds, for the benefit of America's small rural businesses and the customers and communities they serve.

Under RBIP, USDA may license RBICs as either leveraged or non-leveraged. The Agency began accepting applications for non-leveraged status under RBIP on August 6, 2012.

The purpose of this Notice is to define the scope of the annual compliance review for each

operating non-leveraged RBIC.

All licensed RBICs are subject to regulatory compliance examinations by USDA under 7 CFR 4290.690. The examination objective is to evaluate and conclude whether the RBIC has appropriately complied with USDA program regulations in 7 CFR part 4290. The examination determines whether investments made by the RBIC were to eligible entities and for authorized purposes under program regulations.

II. Examination Provisions

This section of the Notice identifies the procedures the Agency will use in the compliance examination of non-leveraged RBICs.

Procedures

A. In accordance with 7 CFR 4290.690, the Agency will conduct each year an examination of each non-leveraged RBIC for the sole purpose of evaluating regulatory compliance.

B. The Agency will conduct these regulatory compliance examinations using Agency rules located in subparts G, H, and I—as modified by subpart O—of 7 CFR part 4290 for non-leveraged RBICs.

C. The Agency will apply the definitions of 7 CFR 4290.50 to RBIC examination reports and work papers.

D. The Agency will examine the operations of the RBIC; it will not examine the investors in the RBIC.

E. The Agency will determine whether each investment made by the RBIC is eligible based on the regulations defined in 7 CFR Part 4290; the Agency will not examine the quality of the investments made by the RBIC.

F. The Agency will conduct the examination of a non-leveraged RBIC off-site, absent specific authorization from USDA for on-site visits.

G. The Agency will provide a copy of the final examination report and its conclusions to the RBIC.

H. If the portfolio concerns were determined to be ineligible under 7 CFR 4290.700(e) during the compliance examination, the RBIC will have until the end of their next fiscal year to remedy the non-compliance. If the RBIC fails to comply with the Secretary's remedy, the Agency may, in accordance with 7 CFR 4290.3041, revoke the

license of the RBIC.

I. As amplified in this Notice, the Agency reviews the RBIC for regulatory compliance only. The Agency does not make any assessments, evaluations, warranties, or representations with respect to any aspect of the financial performance of the RBIP, its investments, or its investors, including their financial strength, likelihood of success, or the quality of, or return on, any investments. The review done by the Agency is strictly for its sole benefit and not for the benefit of any third party. All participants and investors in RBIPs must do their own independent due diligence.

III. Nondiscrimination

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual

orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of

the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by:

(1) Mail: U.S. Department of Agriculture
Office of the Assistant Secretary for Civil
Rights 1400 Independence Avenue, SW.,
Washington, DC 20250-9410;

(2) Fax: (202) 690-7442; or

(3) Email: program.intake@usda.gov.

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Chad Parker
Acting Administrator
Rural Business-Cooperative Service
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