

Calendar No. 280

117TH CONGRESS
2D SESSION

S. 2521

To require the Administrator of the Small Business Administration to establish an SBIC Working Group, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 28, 2021

Mr. CARDIN (for himself, Mr. RISCH, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

FEBRUARY 17, 2022

Reported by Mr. CARDIN, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To require the Administrator of the Small Business Administration to establish an SBIC Working Group, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “SBIC Working Group
5 Act of 2021”.

1 **SEC. 2. SBIC WORKING GROUP.**

2 (a) DEFINITIONS.—In this section—

3 (1) the terms “Administration” and “Adminis-
4 trator” mean the Small Business Administration
5 and the Administrator thereof, respectively;

6 (2) the term “covered Members” means the
7 Chair and Ranking Member of—

8 (A) the Committee on Small Business and
9 Entrepreneurship of the Senate; and

10 (B) the Committee on Small Business of
11 the House of Representatives;

12 (3) the terms “licensee”, “small business in-
13 vestment company”, and “underlicensed State” have
14 the meanings given those terms in section 301 of the
15 Small Business Investment Act of 1958 (15 U.S.C.
16 662);

17 (4) the term “low-income community” has the
18 meaning given the term in section 45D(e) of the In-
19 ternal Revenue Code of 1986;

20 (5) the term “rural area” has the meaning
21 given the term by the Bureau of the Census;

22 (6) the terms “small business concern”, “small
23 business concern owned and controlled by veterans”,
24 and “small business concern owned and controlled
25 by women” have the meanings given those terms in

1 section 3 of the Small Business Act (15 U.S.C.
2 632);

3 (7) the term “socially or economically disadvan-
4 taged individual” means a socially disadvantaged in-
5 dividual or economically disadvantaged individual, as
6 described in paragraphs (5) and (6)(A), respectively,
7 of section 8(a) of the Small Business Act (15 U.S.C.
8 637(a));

9 (8) the term “underfinanced State” means a
10 State that has below median financing, as deter-
11 mined by the Administrator; and

12 (9) the term “underserved community”
13 means—

14 (A) a HUBZone, as defined in section
15 31(b) of the Small Business Act (15 U.S.C.
16 657a(b));

17 (B) a community that has been designated
18 as an empowerment zone or an enterprise com-
19 munity under section 1391 of the Internal Rev-
20 enue Code of 1986;

21 (C) a community that has been designated
22 as a promise zone by the Secretary of Housing
23 and Urban Development; and

1 ~~(D)~~ a community that has been designated
 2 as a qualified opportunity zone under section
 3 ~~1400Z-1~~ of the Internal Revenue Code of 1986.

4 ~~(b)~~ ESTABLISHMENT.—Not later than 90 days after
 5 the date on which the covered Members submit to the Ad-
 6 ministrator a notification that the covered Members have
 7 made all selections described in subparagraphs ~~(A)(ii)~~;
 8 ~~(B)(ii)~~, and ~~(D)~~ of paragraph (1) (and that the individuals
 9 so selected have accepted those assignments); the Admin-
 10 istrator shall establish an SBIC Working Group (referred
 11 to in this section as the “Working Group”), which shall—

12 ~~(1)~~ include—

13 ~~(A)~~ 4 representatives—

14 ~~(i)~~ among general partners of licens-
 15 ees that have a demonstrated record of in-
 16 vesting in—

17 ~~(I)~~ low-income communities;

18 ~~(II)~~ communities that have been
 19 designated as qualified opportunity
 20 zones under section ~~1400Z-1~~ of the
 21 Internal Revenue Code of 1986;

22 ~~(III)~~ businesses primarily en-
 23 gaged in research and development;

24 ~~(IV)~~ manufacturers;

(V) businesses primarily owned or controlled by individuals in underserved communities before receiving capital from the licensee; and

(VI) rural areas; and

(ii) of whom—

(I) 1 shall be selected by the Chair of the Committee on Small Business and Entrepreneurship of the Senate;

(II) 1 shall be selected by the Ranking Member of the Committee on Small Business and Entrepreneurship of the Senate;

(III) 1 shall be selected by the Chair of the Committee on Small Business of the House of Representatives; and

(IV) 1 shall be selected by the Ranking Member of the Committee on Small Business of the House of Representatives;

(B) 4 representatives—

(i) from licensees; of whom 1 shall be an owner of a small business investment

company or fund manager that is located
in—

(I) a low-income community;

(II) a community that has been
designated as a qualified opportunity
zone under section 1400Z-1 of the In-
ternal Revenue Code of 1986;

(III) an underserved community;

(IV) a rural area; or

(V) an underfinanced State; and

(ii) of whom—

(I) 1 shall be selected by the
Chair of the Committee on Small
Business and Entrepreneurship of the
Senate;

(II) 1 shall be selected by the
Ranking Member of the Committee on
Small Business and Entrepreneurship
of the Senate;

(III) 1 shall be selected by the
Chair of the Committee on Small
Business of the House of Representa-
tives; and

(IV) 1 shall be selected by the
Ranking Member of the Committee on

1 Small Business of the House of Rep-
 2 resentatives;

3 ~~(C)~~ the Associate Administrator for the
 4 Office of Investment and Innovation of the Ad-
 5 ministration, who shall—

6 (i) serve as the Chair of the Working
 7 Group; and

8 (ii) select not more than 4 additional
 9 representatives from the Office of Invest-
 10 ment and Innovation of the Administration
 11 to serve as representatives of the Working
 12 Group; and

13 ~~(D)~~ 4 representatives from the investment
 14 industry or academia, or who are bank limited
 15 partners, with expertise in developing and moni-
 16 toring interventions to expand the investment
 17 industry, of whom—

18 (i) 1 shall be selected by the Chair of
 19 the Committee on Small Business and En-
 20 trepreneurship of the Senate;

21 (ii) 1 shall be selected by the Ranking
 22 Member of the Committee on Small Busi-
 23 ness and Entrepreneurship of the Senate;

1 (iii) 1 shall be selected by the Chair of
 2 the Committee on Small Business of the
 3 House of Representatives; and

4 (iv) 1 shall be selected by the Ranking
 5 Member of the Committee on Small Busi-
 6 ness of the House of Representatives;

7 (2) develop recommendations regarding how the
 8 Administrator could increase the number of—

9 (A) applicants to become small business in-
 10 vestment companies, with a focus on manage-
 11 ment teams or companies located in—

12 (i) low-income communities;

13 (ii) communities that have been des-
 14 ignated as qualified opportunity zones
 15 under section 1400Z-1 of the Internal
 16 Revenue Code of 1986;

17 (iii) underserved communities; and

18 (iv) rural areas; and

19 (B) investments made in underfinanced
 20 States;

21 (3) develop recommendations for incentives for
 22 small business investment companies to—

23 (A) invest and locate in underlicensed
 24 States and underfinanced States; and

1 ~~(B)~~ invest in small business concerns, in-
 2 cluding those owned and controlled by socially
 3 or economically disadvantaged individuals; small
 4 business concerns owned and controlled by vet-
 5 erans; and small business concerns owned and
 6 controlled by women; and

7 ~~(4)~~ develop recommendations for metrics of suc-
 8 cess; and benchmarks for success; with respect to
 9 the goals described in this section.

10 ~~(c) AVAILABILITY OF MEETINGS.—~~The Working
 11 Group may make the meetings of the Working Group open
 12 to the public without regard to whether those meetings
 13 are held in-person, virtually, or by some other means.

14 ~~(d) REPORT.—~~Not later than 1 year after the date
 15 on which the Administrator establishes the Working
 16 Group under subsection (b); the Working Group shall sub-
 17 mit to the Committee on Small Business and Entrepre-
 18 neurship of the Senate and the Committee on Small Busi-
 19 ness of the House of Representatives a report that in-
 20 cludes—

21 ~~(1)~~ the recommendations of the Working
 22 Group; and

23 ~~(2)~~ a recommended plan and timeline for imple-
 24 menting the recommendations described in para-
 25 graph ~~(1)~~.

1 ~~(e) TERMINATION.—The Working Group shall termi-~~
 2 ~~nate on the date on which the Working Group submits~~
 3 ~~the report required under subsection (d).~~

4 ~~(f) APPLICABILITY OF FEDERAL ADVISORY COM-~~
 5 ~~MITTEE ACT.—The Federal Advisory Committee Act (5~~
 6 ~~U.S.C. App.) shall not apply with respect to the Working~~
 7 ~~Group or the activities of the Working Group.~~

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “SBIC Advisory Com-*
 10 *mittee Act of 2022”.*

11 **SEC. 2. SBIC ADVISORY COMMITTEE.**

12 ~~(a) DEFINITIONS.—In this section—~~

13 ~~(1) the terms “Administration” and “Adminis-~~
 14 ~~trator” mean the Small Business Administration and~~
 15 ~~the Administrator thereof, respectively;~~

16 ~~(2) the term “Advisory Committee” means the~~
 17 ~~SBIC Advisory Committee established under sub-~~
 18 ~~section (b);~~

19 ~~(3) the term “covered Members” means the Chair~~
 20 ~~and Ranking Member of—~~

21 ~~(A) the Committee on Small Business and~~
 22 ~~Entrepreneurship of the Senate; and~~

23 ~~(B) the Committee on Small Business of the~~
 24 ~~House of Representatives;~~

1 (4) the terms “licensee”, “small business invest-
2 ment company”, and “underlicensed State” have the
3 meanings given those terms in section 103 of the
4 Small Business Investment Act of 1958 (15 U.S.C.
5 662);

6 (5) the term “low-income community” has the
7 meaning given the term in section 45D(e) of the In-
8 ternal Revenue Code of 1986;

9 (6) the term “rural area” has the meaning given
10 the term by the Bureau of the Census;

11 (7) the terms “small business concern”, “small
12 business concern owned and controlled by veterans”,
13 and “small business concern owned and controlled by
14 women” have the meanings given those terms in sec-
15 tion 3 of the Small Business Act (15 U.S.C. 632);

16 (8) the term “socially or economically disadvan-
17 taged individual” means a socially disadvantaged in-
18 dividual or economically disadvantaged individual,
19 as described in paragraphs (5) and (6)(A), respec-
20 tively, of section 8(a) of the Small Business Act (15
21 U.S.C. 637(a));

22 (9) the term “underfinanced State” means a
23 State that has below median financing, as determined
24 by the Administrator; and

1 (10) the term “underserved community”
2 *means—*

3 (A) a HUBZone, as defined in section 31(b)
4 *of the Small Business Act (15 U.S.C. 657a(b));*

5 (B) a community that has been designated
6 *as an empowerment zone or an enterprise com-*
7 *munity under section 1391 of the Internal Rev-*
8 *enue Code of 1986;*

9 (C) a community that has been designated
10 *as a promise zone by the Secretary of Housing*
11 *and Urban Development; and*

12 (D) a community that has been designated
13 *as a qualified opportunity zone under section*
14 *1400Z–1 of the Internal Revenue Code of 1986.*

15 (b) *ESTABLISHMENT.—The Administrator shall estab-*
16 *lish an SBIC Advisory Committee to convene outside ex-*
17 *perts to advise on the small business investment program*
18 *under title III of the Small Business Investment Act of 1958*
19 *(15 U.S.C. 681 et seq.).*

20 (c) *COMPOSITION.—*

21 (1) *MEMBERSHIP.—The Advisory Committee*
22 *shall be composed of 16 members appointed by the*
23 *Administrator as follows:*

24 (A) *The Associate Administrator of the Of-*
25 *fice of Investment and Innovation of the Small*

1 *Business Administration, or another designee of*
 2 *the Administrator as determined by the Admin-*
 3 *istrator.*

4 *(B) 7 members with competence, interest, or*
 5 *knowledge of the small business investment pro-*
 6 *gram under title III of the Small Business In-*
 7 *vestment Act of 1958 (15 U.S.C. 681 et seq.), of*
 8 *whom—*

9 *(i) not fewer than 3 shall have a dem-*
 10 *onstrated record of expertise in investing*
 11 *in—*

12 *(I) low-income communities;*

13 *(II) communities that have been*
 14 *designated as qualified opportunity*
 15 *zones under section 1400Z–1 of the In-*
 16 *ternal Revenue Code of 1986;*

17 *(III) businesses primarily engaged*
 18 *in research and development;*

19 *(IV) manufacturers;*

20 *(V) businesses primarily owned or*
 21 *controlled by individuals in under-*
 22 *served communities before receiving*
 23 *capital from the licensee;*

24 *(VI) rural areas; or*

25 *(VII) underfinanced States; and*

1 (ii) not fewer than 1 member shall be
2 a representative from a trade association
3 for the small business investment program
4 under title III of the Small Business Invest-
5 ment Act of 1958 (15 U.S.C. 681 et seq.).

6 (C) 8 members appointed by the Adminis-
7 trator as follows:

8 (i) 2 members shall be selected from
9 among the individuals on the list submitted
10 by the Chair of the Committee on Small
11 Business and Entrepreneurship of the Sen-
12 ate under paragraph (2).

13 (ii) 2 members shall be selected from
14 among the individuals on the list submitted
15 by the Ranking Member of the Committee
16 on Small Business and Entrepreneurship of
17 the Senate under paragraph (2).

18 (iii) 2 members shall be selected from
19 among the individuals on the list submitted
20 by the Chair of the Committee on Small
21 Business of the House of Representatives
22 under paragraph (2).

23 (iv) 2 members shall be selected from
24 among the individuals on the list submitted
25 by the Ranking Member of the Committee

1 on *Small Business of the House of Rep-*
 2 resentatives under paragraph (2).

3 (2) *RECOMMENDATIONS*.—Not later than 30 days
 4 after the date of enactment of this Act, each of the
 5 covered Members shall provide to the Administrator a
 6 list of 3 candidates for membership on the Advisory
 7 Committee, who shall be individuals who hold a high-
 8 ranking position or senior leadership role, and have
 9 no conflict of interest in the small business investment
 10 program under title III of the Small Business Invest-
 11 ment Act of 1958 (15 U.S.C. 681 et seq.), in—

12 (A) a relevant industry trade association;

13 (B) the investment industry with expertise
 14 in pensions, endowments, and other non-banking
 15 institutions;

16 (C) academia with expertise in the invest-
 17 ment industry; or

18 (D) a nonprofit institution, including one
 19 that serves any of the communities, entities, or
 20 areas described in subclauses (I) through (VII) of
 21 paragraph (1)(B)(i).

22 (3) *CHAIRPERSON*.—The Chairperson of the Ad-
 23 visory Committee shall be the member of the Advisory
 24 Committee appointed under paragraph (1)(A).

1 (4) *PERIOD OF APPOINTMENT.*—*Members of the*
 2 *Advisory Committee shall be appointed for the life of*
 3 *the Advisory Committee.*

4 (5) *VACANCIES.*—*Any vacancy in the Advisory*
 5 *Committee shall be filled in the same manner as the*
 6 *original appointment.*

7 (d) *DEADLINE FOR APPOINTMENT.*—*Not later than 60*
 8 *days after the date on which the covered Members provide*
 9 *the lists to the Administrator under subsection (c)(2), the*
 10 *Administrator shall—*

11 (1) *appoint the members of the Advisory Com-*
 12 *mittee; and*

13 (2) *submit to Congress a list of the members so*
 14 *appointed.*

15 (e) *DUTIES.*—*The Advisory Committee shall provide*
 16 *advice and recommendations to the Administrator—*

17 (1) *concerning policy and program development*
 18 *and other matters of significance concerning activities*
 19 *under the Small Business Act (15 U.S.C. 631 et seq.)*
 20 *and the Small Business Investment Act of 1958 (15*
 21 *U.S.C. 661 et seq.), including how the Administrator*
 22 *may increase the number of applicants to become*
 23 *small business investment companies, with a focus on*
 24 *management teams or companies investing in or lo-*
 25 *cated in—*

1 (A) *low-income communities;*

2 (B) *underserved communities;*

3 (C) *rural areas; or*

4 (D) *underfinanced States;*

5 (2) *concerning incentives for small business in-*
6 *vestment companies to—*

7 (A) *invest and locate in underlicensed*
8 *States and underfinanced States; and*

9 (B) *invest in small business concerns, in-*
10 *cluding those owned and controlled by socially or*
11 *economically disadvantaged individuals, small*
12 *business concerns owned and controlled by vet-*
13 *erans, and small business concerns owned and*
14 *controlled by women; and*

15 (3) *concerning metrics of success, and bench-*
16 *marks for success, with respect to the goals described*
17 *in this section.*

18 (f) *REPORT.—Not later than 18 months after the date*
19 *on which the Administrator establishes the Advisory Com-*
20 *mittee under subsection (b), the Advisory Committee shall*
21 *submit to the Administrator, the Committee on Small Busi-*
22 *ness and Entrepreneurship of the Senate, and the Com-*
23 *mittee on Small Business of the House of Representatives*
24 *a report that includes—*

1 (1) *the recommendations of the Advisory Com-*
 2 *mittee; and*

3 (2) *a discussion of the impact of State, local,*
 4 *and financial institution investment in small busi-*
 5 *ness investment companies on small business concerns*
 6 *in rural areas, low-income communities, underserved*
 7 *communities, and underfinanced States.*

8 (g) *TERMINATION.*—*The Advisory Committee shall ter-*
 9 *minate on the date on which the Advisory Committee sub-*
 10 *mits the report required under subsection (f).*

Amend the title so as to read: “A bill to require the Administrator of the Small Business Administration to establish an SBIC Advisory Committee, and for other purposes.”.

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A BILL

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