



1 Administration as a participating investment  
2 company under section 321.”; and

3 (2) by adding at the end the following:

4 **“SEC. 321. SMALL BUSINESS AND DOMESTIC PRODUCTION**

5 **RECOVERY INVESTMENT FACILITY.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) ELIGIBLE SMALL BUSINESS CONCERN.—

8 The term ‘eligible small business concern’—

9 “(A) means a small business concern that  
10 is a manufacturing business that is assigned a  
11 North American Industry Classification System  
12 code beginning with 31, 32, or 33 at the time  
13 at which the small business concern receives an  
14 investment from a participating investment  
15 company under the facility; and

16 “(B) does not include an entity described  
17 in section 7(a)(37)(A)(iv)(III) of the Small  
18 Business Act (15 U.S.C.  
19 636(a)(37)(A)(iv)(III)).

20 “(2) FACILITY.—The term ‘facility’ means the  
21 facility established under subsection (b).

22 “(3) FUND.—The term ‘Fund’ means the fund  
23 established under subsection (h).

24 “(4) PARTICIPATING INVESTMENT COMPANY.—

25 The term ‘participating investment company’ means

1 a small business investment company approved  
2 under subsection (d) to participate in the facility.

3 “(5) PROTÉGÉ INVESTMENT COMPANY.—The  
4 term ‘protégé investment company’ means a small  
5 business investment company that—

6 “(A) is majority managed by new, inexperi-  
7 enced, or otherwise underrepresented fund man-  
8 agers; and

9 “(B) elects and is selected by the Adminis-  
10 tration to participate in the pathway-protégé  
11 program under subsection (g).

12 “(6) SMALL BUSINESS CONCERN.—The term  
13 ‘small business concern’ has the meaning given the  
14 term in section 3(a) of the Small Business Act (15  
15 U.S.C. 632(a)).

16 “(b) ESTABLISHMENT.—

17 “(1) FACILITY.—The Administrator shall estab-  
18 lish and carry out a facility to increase resiliency in  
19 the manufacturing supply chain of eligible small  
20 business concerns by providing financial assistance  
21 to participating investment companies that facilitate  
22 equity financings to eligible small business concerns  
23 in accordance with this section.

24 “(2) ADMINISTRATION OF FACILITY.—The fa-  
25 cility shall be administered by the Administrator act-

1       ing through the Associate Administrator described in  
2       section 201.

3       “(c) APPLICATIONS.—

4               “(1) IN GENERAL.—Any small business invest-  
5       ment company may submit to the Administrator an  
6       application to participate in the facility.

7               “(2) REQUIREMENTS FOR APPLICATION.—An  
8       application to participate in the facility shall include  
9       the following:

10               “(A) A business plan describing how the  
11       applicant intends to make successful equity in-  
12       vestments in eligible small business concerns.

13               “(B) Information regarding the relevant  
14       investment qualifications and backgrounds of  
15       the individuals responsible for the management  
16       of the applicant.

17               “(C) A description of the extent to which  
18       the applicant meets the selection criteria under  
19       subsection (d)(2).

20               “(3) EXCEPTIONS TO APPLICATION FOR NEW  
21       LICENSEES.—Not later than 90 days after the date  
22       of enactment of this section, the Administrator shall  
23       reduce requirements for applicants applying to oper-  
24       ate as a participating investment company under  
25       this section in order to encourage the participation

1 of new small business investment companies in the  
2 facility under this section, which may include the re-  
3 quirements established under part 107 of title 13,  
4 Code of Federal Regulations, or any successor regu-  
5 lation, relating to—

6 “(A) the approval of initial management  
7 expenses;

8 “(B) the management ownership diversity  
9 requirement;

10 “(C) the disclosure of general compen-  
11 satory practices and fee structures; or

12 “(D) any other requirement that the Ad-  
13 ministrator determines to be an obstacle to  
14 achieving the purposes described in this para-  
15 graph.

16 “(d) SELECTION OF PARTICIPATING INVESTMENT  
17 COMPANIES.—

18 “(1) DETERMINATION.—

19 “(A) IN GENERAL.—Except as provided in  
20 paragraph (3), not later than 60 days after the  
21 date on which the Administrator receives an ap-  
22 plication under subsection (c), the Adminis-  
23 trator shall—

1                   “(i) make a final determination to ap-  
2                   prove or disapprove such applicant to par-  
3                   ticipate in the facility; and

4                   “(ii) transmit the determination to the  
5                   applicant in writing.

6                   “(B) COMMITMENT AMOUNT.—Except as  
7                   provided in paragraph (3), at the time of ap-  
8                   proval of an applicant, the Administrator shall  
9                   make a determination of the amount of the  
10                  commitment that may be awarded to the appli-  
11                  cant under this section.

12                  “(2) SELECTION CRITERIA.—In making a de-  
13                  termination under paragraph (1), the Administrator  
14                  shall consider—

15                         “(A) the probability that the investment  
16                         strategy of the applicant will successfully repay  
17                         any financial assistance provided by the Admin-  
18                         istration, including the probability of a return  
19                         significantly in excess thereof;

20                         “(B) the probability that the investments  
21                         made by the applicant will—

22                                 “(i) provide capital to eligible small  
23                                 business concerns; or

24                                 “(ii) create or preserve jobs in the  
25                                 United States;

1           “(C) the probability that the applicant will  
2 meet the objectives in the business plan of the  
3 applicant, including the financial goals, and, if  
4 applicable, the pathway-protégé program in ac-  
5 cordance with subsection (g); and

6           “(D) the probability that the applicant will  
7 assist eligible small business concerns in achiev-  
8 ing profitability.

9           “(3) APPROVAL OF PARTICIPATING INVEST-  
10       MENT COMPANIES.—

11           “(A) PROVISIONAL APPROVAL.—

12           “(i) IN GENERAL.—Notwithstanding  
13 paragraph (1), with respect to an applica-  
14 tion submitted by an applicant to operate  
15 as a participating investment company  
16 under this section, the Administrator may  
17 provide provisional approval for the appli-  
18 cant in lieu of a final determination of ap-  
19 proval and determination of the amount of  
20 the commitment under that paragraph.

21           “(ii) PURPOSE.—The purpose of a  
22 provisional approval under clause (i) is  
23 to—

24           “(I) encourage applications from  
25 investment companies with an invest-

1                   ment mandate from the committed  
2                   private market capital of the invest-  
3                   ment company that does not conform  
4                   to the requirements described in this  
5                   section at the time of application;

6                   “(II) allow the applicant to more  
7                   effectively raise capital commitments  
8                   in the private markets by referencing  
9                   the intent of the Administrator to  
10                  award the applicant a commitment;  
11                  and

12                  “(III) allow the applicant to more  
13                  precisely request the desired amount  
14                  of commitment pending the securing  
15                  of capital from private market inves-  
16                  tors.

17                  “(iii) LIMIT ON PERIOD OF THE  
18                  TIME.—The period between a provisional  
19                  approval under clause (i) and the final de-  
20                  termination of approval under paragraph  
21                  (1) shall not exceed 12 months.

22                  “(e) COMMITMENTS AND SBIC BONDS.—

23                  “(1) IN GENERAL.—The Administrator may,  
24                  out of amounts available in the Fund, purchase or  
25                  commit to purchase from a participating investment



1 company 1 or more accruing bonds that include eq-  
2 uity features as described in this subsection.

3 “(2) BOND TERMS.—A bond purchased by the  
4 Administrator from a participating investment com-  
5 pany under this subsection shall have the following  
6 terms and conditions:

7 “(A) TERM AND INTEREST.—

8 “(i) IN GENERAL.—The bond shall be  
9 issued for a term of not less than 15 years  
10 and shall bear interest at a rate deter-  
11 mined by the Administrator of not more  
12 than 2 percent.

13 “(ii) ACCRUAL OF INTEREST.—Inter-  
14 est on the bond shall accrue and shall be  
15 payable in accordance with subparagraph  
16 (D).

17 “(iii) PREPAYMENT.—The bond shall  
18 be prepayable without penalty after the  
19 end of the 1-year period beginning on the  
20 date on which the bond was purchased.

21 “(B) PROFITS.—

22 “(i) IN GENERAL.—The Administra-  
23 tion shall be entitled to receive a share of  
24 the profits net of any profit sharing per-  
25 formance compensation of the participating

1 investment company equal to the quotient  
2 obtained by dividing—

3 “(I) one-third of the commitment  
4 that the participating investment com-  
5 pany is approved for under subsection  
6 (d); by

7 “(II) the commitment approved  
8 under subsection (d) plus the regu-  
9 latory capital of the participating in-  
10 vestment company at the time of ap-  
11 proval under that subsection.

12 “(ii) DETERMINATION OF PERCENT-  
13 AGE.—The share to which the Administra-  
14 tion is entitled under clause (i)—

15 “(I) shall be determined at the  
16 time of approval under subsection (d);  
17 and

18 “(II) without the approval of the  
19 Administration, shall not be revised,  
20 including to reflect subsequent dis-  
21 tributions of profits, returns of cap-  
22 ital, or repayments of bonds, or other-  
23 wise.

24 “(C) PROFIT SHARING PERFORMANCE  
25 COMPENSATION.—

1                   “(i) RECEIPT BY ADMINISTRATION.—

2                   The Administration shall receive a share of  
3                   profits of not more than 2 percent, which  
4                   shall be deposited into the Fund and be  
5                   available to make commitments under this  
6                   subsection.

7                   “(ii) RECEIPT BY MANAGERS.—The

8                   managers of the participating investment  
9                   company may receive a maximum profit  
10                  sharing performance compensation of 25  
11                  percent minus the share of profits paid to  
12                  the Administration under clause (i).

13                  “(D) PROHIBITION ON DISTRIBUTIONS.—

14                  No distributions on capital, including profit dis-  
15                  tributions, shall be made by the participating  
16                  investment company to the investors or man-  
17                  agers of the participating investment company  
18                  until the Administration has received payment  
19                  of all accrued interest on the bond committed  
20                  under this section.

21                  “(E) REPAYMENT OF PRINCIPAL.—Except

22                  as described in subparagraph (F), repayments  
23                  of principal of the bond of a participating in-  
24                  vestment company shall be—

1                   “(i) made at the same time as returns  
2                   of private capital; and

3                   “(ii) in amounts equal to the pro rata  
4                   share of the Administration of the total  
5                   amount being repaid or returned at such  
6                   time.

7                   “(F) LIQUIDATION OR DEFAULT.—Upon  
8                   any liquidation event or default, as defined by  
9                   the Administration, any unpaid principal or ac-  
10                  crued interest on the bond shall—

11                  “(i) have a priority over all equity of  
12                  the participating investment company; and

13                  “(ii) be paid before any return of eq-  
14                  uity or any other distributions to the inves-  
15                  tors or managers of the participating in-  
16                  vestment company.

17                  “(3) AMOUNT OF COMMITMENTS AND PUR-  
18                  CHASES.—

19                  “(A) MAXIMUM AMOUNT.—The maximum  
20                  amount of outstanding bonds and commitments  
21                  to purchase bonds for any participating invest-  
22                  ment company under the facility shall be the  
23                  lesser of—

1                   “(i) twice the amount of the regu-  
2                   latory capital of the participating invest-  
3                   ment company; or

4                   “(ii) \$200,000,000.—

5                   “(4) COMMITMENT PROCESS.—Commitments by  
6                   the Administration to purchase bonds under the fa-  
7                   cility shall remain available to be sold by a partici-  
8                   pating investment company until the end of the  
9                   fourth fiscal year following the year in which the  
10                  commitment is made, subject to review and approval  
11                  by the Administration based on regulatory compli-  
12                  ance, financial status, change in management, devi-  
13                  ation from business plan, and such other limitations  
14                  as may be determined by the Administration by reg-  
15                  ulation or otherwise.

16                  “(5) COMMITMENT CONDITIONS.—

17                  “(A) IN GENERAL.—As a condition of re-  
18                  ceiving a commitment under the facility, not  
19                  less than 50 percent of amounts invested by the  
20                  participating investment company shall be in-  
21                  vested in eligible small business concerns.

22                  “(B) EXAMINATIONS.—In addition to the  
23                  matters set forth in section 310(c), the Admin-  
24                  istration shall examine each participating in-  
25                  vestment company in such detail so as to deter-

1           mine whether the participating investment com-  
2           pany has complied with the requirements under  
3           this subsection.

4           “(f) DISTRIBUTIONS AND FEES.—

5           “(1) DISTRIBUTION REQUIREMENTS.—

6           “(A) DISTRIBUTIONS.—As a condition of  
7           receiving a commitment under the facility, a  
8           participating investment company shall make  
9           all distributions to the Administrator in the  
10          same form and in a manner as are made to in-  
11          vestors, or otherwise at a time and in a manner  
12          consistent with regulations or policies of the  
13          Administration.

14          “(B) ALLOCATIONS.—A participating in-  
15          vestment company shall make allocations of in-  
16          come, gain, loss, deduction, and credit to the  
17          Administrator with respect to any outstanding  
18          bonds as if the Administrator were an investor.

19          “(2) FEES.—The Administrator may not  
20          charge fees for participating investment companies  
21          other than examination fees that are consistent with  
22          the license of the participating investment company.

23          “(3) BIFURCATION.—Losses on bonds issued by  
24          participating investment companies shall not be off-

1 set by fees or any other charges on debenture small  
2 business investment companies.

3 “(g) PROTÉGÉ PROGRAM.—The Administrator shall  
4 establish a pathway-protégé program in which a protégé  
5 investment company may receive technical assistance and  
6 program support from a participating investment company  
7 on a voluntary basis and without penalty for non-partici-  
8 pation.

9 “(h) LOSS LIMITING FUND.—

10 “(1) IN GENERAL.—There is established in the  
11 Treasury a fund for making commitments and pur-  
12 chasing bonds with equity features under the facility  
13 and receiving capital returned by participating in-  
14 vestment companies.

15 “(2) USE OF FUNDS.—Amounts appropriated  
16 to the Fund or deposited in the Fund under para-  
17 graph (3) shall be available to the Administrator,  
18 without further appropriation, for making commit-  
19 ments and purchasing bonds under the facility and  
20 expenses and payments, excluding administrative ex-  
21 penses, relating to the operations of the Adminis-  
22 trator under the facility.

23 “(3) DEPOSITING OF AMOUNTS.—

24 “(A) IN GENERAL.—All amounts received  
25 by the Administrator from a participating in-

1 investment company relating to the facility, in-  
2 cluding any moneys, property, or assets derived  
3 by the Administrator from operations in con-  
4 nection with the facility, shall be deposited in  
5 the Fund.

6 “(B) PERIOD OF AVAILABILITY.—Amounts  
7 deposited under subparagraph (A) shall remain  
8 available until expended.

9 “(i) APPLICATION OF OTHER SEC-  
10 TIONS.—To the extent not inconsistent  
11 with requirements under this section, the  
12 Administrator may apply sections 309,  
13 311, 312, 313, and 314 to activities under  
14 this section and an officer, director, em-  
15 ployee, agent, or other participant in a  
16 participating investment company shall be  
17 subject to the requirements under such  
18 sections.

19 “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
20 is authorized to be appropriated for the first fiscal year  
21 beginning after the date of enactment of this part  
22 \$9,500,000,000 to carry out the facility. Amounts appro-  
23 priated pursuant to this subsection shall remain available  
24 until the end of the second fiscal year beginning after the  
25 date of enactment of this section.”.



1 (b) APPROVAL OF BANK-OWNED, NON-LEVERAGED  
2 APPLICANTS.—Section 301(c)(2) of the Small Business  
3 Investment Act of 1958 (15 U.S.C. 681(c)(2)) is amend-  
4 ed—

5 (1) in subparagraph (B), in the matter pre-  
6 ceding clause (i), by striking “Within” and inserting  
7 “Except as provided in subparagraph (C), within”;  
8 and

9 (2) by adding at the end the following:

10 “(C) EXCEPTION FOR BANK-OWNED, NON-  
11 LEVERAGED APPLICANTS.—Notwithstanding  
12 subparagraph (B), not later than 45 days after  
13 the date on which the Administrator receives a  
14 completed application submitted by a bank-  
15 owned, non-leveraged applicant in accordance  
16 with this subsection and in accordance with  
17 such requirements as the Administrator may  
18 prescribe by regulation, the Administrator  
19 shall—

20 “(i) review the application in its en-  
21 tirety; and

22 “(ii)(I) approve the application and  
23 issue a license for such operation to the  
24 applicant if the requirements of this sec-  
25 tion are satisfied; or

1                                   “(II) disapprove the application  
2                                   and notify the applicant in writing of  
3                                   the disapproval.”.

4           (c) **ELECTRONIC SUBMISSIONS.**—Part A of title III  
5 of the Small Business Investment Act of 1958 (15 U.S.C.  
6 681 et seq.), as amended by subsection (a) of this section,  
7 is amended by adding at the end the following:

8 **“SEC. 322. ELECTRONIC SUBMISSIONS.**

9           “The Administration shall permit any document sub-  
10 mitted under this title, or pursuant to a regulation car-  
11 rying out this title, to be submitted electronically, includ-  
12 ing by permitting an electronic signature for any signature  
13 that is required on such a document.”.

