

§ 4290.503

you have incurred, or Financings you have made. You must include a statement to this effect in any solicitation provided to investors. Example: You may not represent or imply that “USDA stands behind the RBIC” or that “Your capital is safe because the Secretary’s experts review proposed investments to make sure they are safe for the RBIC.”

§ 4290.503 RBIC’s adoption of an approved valuation policy.

(a) *Valuation guidelines.* You must prepare, document and report the valuations of your Loans and Investments in accordance with the Valuation Guidelines for SBICs issued by SBA. These guidelines may be obtained from SBA’s Investment Division or at http://www.sba.gov/sites/default/files/files/inv_valuation.pdf.

(b) *The Secretary’s approval of valuation policy.* You must have a written valuation policy approved by the Secretary for use in determining the value of your Loans and Investments. You must either:

(1) Adopt without change the model valuation policy set forth in section III of the Valuation Guidelines for SBICs; or

(2) Obtain the Secretary’s prior written approval of an alternative valuation policy.

(c) *Responsibility for valuations.* Your board of directors, managing member(s), or general partner(s) will be solely responsible for adopting your valuation policy and for using it to prepare valuations of your Loans and Investments for submission to the Secretary. If the Secretary reasonably believes that your valuations, individually or in the aggregate, are materially misstated, he or she reserves the right to require you to engage, at your expense, an independent third party acceptable to the Secretary to substantiate the valuations.

(d) *Frequency of valuations.* (1) You must value your Loans and Investments at the end of the second quarter of your fiscal year, and again at the end of your fiscal year.

(2) On a case-by-case basis, the Secretary may require you to perform valuations more frequently.

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(3) You must report material adverse changes in valuations at least quarterly, within 30 days following the close of the quarter.

(e) *Review of valuations by independent public accountant.* (1) For valuations performed as of the end of your fiscal year, your independent public accountant must review your valuation procedures and the implementation of such procedures, including adequacy of documentation.

(2) The independent public accountant’s report on your audited annual financial statements (SBA Form 468 or other USDA-approved form(s)) must include a statement that your valuations were prepared in accordance with your approved valuation policy.

[69 FR 32202, June 8, 2004, as amended at 76 FR 80222, Dec. 23, 2011]

§ 4290.504 Equipment of USDA or SBA officials.

(a) *Computer capability.* You must have a personal computer with access to the Internet and be able to use this equipment to prepare reports and transmit such reports to the Secretary. In addition, you must have the capability to send and receive electronic mail.

(b) *Facsimile capability.* You must be able to receive facsimile messages 24 hours per day at your primary office.

(c) *Accessible office.* You must maintain an office that is convenient to the public and is open for business during normal working hours.

[69 FR 32202, June 8, 2004, as amended at 76 FR 80222, Dec. 23, 2011]

§ 4290.506 Safeguarding the RBIC’s assets/Internal controls.

You must adopt a plan to safeguard your assets and monitor the reliability of your financial data, personnel, Portfolio, funds and equipment. You must provide your bank and custodian with a certified copy of your resolution or other formal document describing your control procedures.

§ 4290.507 Violations based on false filings and nonperformance of agreements with the Secretary or SBA.

The following shall constitute a violation of this part: