of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7463. Email: *Stephen.Witkowski@ee.doe.gov*.

Elizabeth Kohl, Esq., U.S. Department of Energy, Office of General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov*.

SUPPLEMENTARY INFORMATION: DOE published new and amended test procedures for residential clothes washers on March 7, 2012 (hereafter, the ''March 2012 final rule''). 77 FR 13888. The current test procedure is codified at appendix J1 in 10 CFR part 430 subpart B (hereafter, ''appendix J1''). The March 2012 final rule amended certain provisions in appendix J1 and also established new clothes washer test procedures, codified in a new appendix J2. Residential clothes washer manufacturers must continue to use appendix J1 to determine compliance of their products with energy conservation standards until the compliance date of any amended standards.

In the preamble to the March 2012 final rule, DOE described its intention to remove an obsolete parenthetical note in section 4.2 of appendix J1, which states that the water factor calculations need not be performed to determine compliance with the energy conservation standards for clothes washers. The Energy Independence and Security Act of 2007 (EISA 2007) amended the Energy Policy and Conservation Act (42 U.S.C. 6291, et seq.) by establishing a water factor standard for top-loading and front-loading standard-size residential clothes washers manufactured on or after January 1, 2011 (42 U.S.C. 6295(g)(9)(A)(ii)); accordingly, this parenthetical note is now obsolete. The calculations in section 4.2 must be performed to determine compliance with energy conservation standards for these clothes washers. In the March 2012 final rule, DOE erroneously omitted regulatory language to remove the obsolete parenthetical note from the water factor calculation section of appendix J1. This final rule corrects section 4.2 of appendix J1 to remove this obsolete note.

In FR Doc. 2012–4819 appearing on page 13888 in the **Federal Register** of Wednesday, March 7, 2012, the following corrections are made:

Appendix J1 [Corrected]

■ 1. On page 13937, correct amendatory instruction 7.m. to read as follows:
■ m. Revising section 4.2 introductory text;
■ 2. On page 13938, third column, before 4.2.3, add the following text:
■ 4.2 Water consumption of clothes washers.

* * * * *

Issued in Washington, DC, on March 29, 2012.

Kathleen B. Hogan,

Deputy Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 2012–8073 Filed 4–3–12; 8:45 am]

BILLING CODE 6450–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245–AF56

Small Business Investment Companies—Conflicts of Interest and Investment of Idle Funds

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration is revising a rule which prohibits a small business investment company (SBIC) from providing financing to an Associate, as defined in the rules, unless it first obtains a conflict of interest exemption from SBA. The revision eliminates the requirement for an exemption in the case of a follow-on investment in a small business concern by an SBIC and an Associate investment fund, where both parties invested previously on the same terms and conditions and where the follow-on investment would also be on the same terms and conditions as well as in the same proportions. In addition, this rule implements two provisions of the Small Business Investment Act of 1958, as amended. First, it brings the public notice requirement for conflict of interest transactions into conformity with statutory requirements. Second, it expands the types of investments an SBIC is permitted to make with its ''idle funds'' (cash that is not immediately needed for fund operations or investments in small business concerns). Finally, the rule makes two technical corrections: Removing an outdated cross-reference; and eliminating a section that exactly duplicates a provision found elsewhere in part 107.

DATES: This rule is effective May 4, 2012.

FOR FURTHER INFORMATION CONTACT: Carol Fendler, Office of Investment, (202) 205–7559 or *sbic@sba.gov*.

SUPPLEMENTARY INFORMATION: On October 14, 2010, SBA published a proposed rule (75 FR 63110) to: (1) Remove the requirement for an SBIC to obtain a conflict of interest exemption from SBA for certain follow-on financings; (2) revise the public notice requirements for conflict of interest financings to conform with statutory requirements under the Small Business Investment Act of 1958, as amended (SBI Act); and (3) expand the types of investments an SBIC is permitted to make with its ''idle funds'', in conformity with the SBI Act. The rule also included two non-substantive technical corrections.

SBA received no relevant comments on the proposed rule, which is being finalized without change. SBA's section-by-section explanation of the proposed regulatory changes, all of which have been implemented in this final rule, is repeated here as a convenience to the reader.

Section 107.730—Financings which constitute conflicts of interest. The SBI Act authorizes SBA to adopt regulations to govern transactions that may constitute a conflict of interest and which may be detrimental to small business concerns, small business investment companies, their investors, or SBA. Accordingly, SBA promulgated 13 CFR 107.730, which generally prohibits financing transactions that involve a conflict of interest, unless the SBIC obtains a prior written exemption from SBA. The most common type of transaction requiring an exemption is ''financing an Associate.'' Associates of an SBIC, as defined in § 107.50, encompass a broad range of related parties based on business, economic and family ties, both direct and indirect.

In addition to identifying transactions requiring a conflict of interest exemption, § 107.730 sets forth the circumstances under which an SBIC is permitted to co-invest with its Associates. The primary purpose of these provisions is to ensure that the terms of such co-investments are ''fair and equitable'' to the SBIC, i.e. that the SBIC is not being disadvantaged relative to an Associate. The co-investment rules include a number of ''safe harbor'' provisions under which the transaction is presumed to be fair and equitable to the SBIC; one of these safe harbors covers financings where the SBIC and its Associate invest at the same time and on the same terms and conditions. SBIC managers frequently seek to rely on this provision because they are involved in

the management of more than one fund and would like to have the funds co-invest in a small business. SBA generally considers such co-investments to be beneficial because risk is spread across more than one entity. The small business may also benefit from having access to multiple investors.

It became apparent after adoption of the current § 107.730 that certain types of transactions could be characterized as both ''co-investment with an Associate'' and ''financing an Associate''. As with all other transactions that involve the financing of an Associate, SBA has required the SBIC to obtain a prior written exemption even if the financing would fall under the safe harbor for co-investments with Associates.

However, SBA believes the exemption requirement is unnecessarily burdensome for one particular type of transaction: The SBIC and an Associate investment fund (most typically a fund under common management) make an initial investment in a small business under the same terms and conditions, which include the acquisition by each fund of at least a 10% equity interest in the small business. This initial round of financing is a ''co-investment with an Associate'' and does not require a conflict of interest exemption. However, when the same two parties want to make a follow-on investment in the same small business, again under the same terms and conditions, the second and subsequent round(s) of financing are considered to be ''financing an Associate'' and do require a prior written exemption. This is because the Associate fund's 10% or greater equity interest causes the small business itself to be defined as an Associate of the SBIC under paragraph (8)(ii) of the definition in § 107.50. While SBA would approve a conflict of interest exemption for a follow-on financing transaction on the same terms and conditions by an SBIC and its Associate fund, the Agency is concerned that the exemption requirement may cause unnecessary delays in making financing available to the small business, and imposes a significant administrative burden on both the SBIC and SBA.

To address this concern, the final rule adds an exception to 13 CFR 107.730(a)(1). This paragraph previously prohibited any financing of an Associate without a prior written conflict of interest exemption. Under the new exception, a prior written exemption is not required for an Associate financing that satisfies all of the following conditions:

1. The small business that will receive the financing is an Associate of the SBIC, pursuant to paragraph (8)(ii) of the Associate definition, only because an Associate investment fund already holds a 10% or greater equity interest in the small business.

2. The SBIC and the Associate fund previously invested in the small business at the same time and on the same terms and conditions.

3. The SBIC and the Associate fund will provide follow-on financing to the small business at the same time and on the same terms and conditions.

4. The SBIC and the Associate fund will provide follow-on financing to the small business in the same proportionate dollar amounts as their respective investments in the previous round of financing (e.g., if the SBIC invested $2 million and the Associate invested $1 million in the previous round, their follow-on investments would be in the same 2:1 ratio).

The revision will allow transactions meeting these specific conditions to be governed only by the co-investment provisions of § 107.730(d) rather than by the ''Associate financing'' provisions of the current § 107.730(a), thereby returning to SBA's original intent when it promulgated the co-investment rules. SBA expects that this change will help to eliminate delays in making follow-on financing available to small businesses while providing appropriate protection for small business concerns, investors in SBICs and the Federal government.

SBA has also revised § 107.730(g), which requires public notice of all requests by SBICs for conflict of interest exemptions. The previous language required public notice by both SBA (via publication in the **Federal Register**) and the requesting SBIC (via publication in a newspaper in the locality most directly affected by the transaction). These disclosure requirements exceeded those required by section 312 of the SBI Act, from which the local publication requirement was removed by section 3 of Public Law 107–100 (December 21, 2001). The final rule brings the regulation into conformity with the statute by eliminating the requirement for public notice in the affected locality; the requirement for public notice in the **Federal Register** is not affected.

Section 107.530—Restrictions on investments of idle funds by leveraged Licensees. An SBIC holding idle funds may invest those funds only as permitted by § 107.530(b). The permitted investments are all relatively short term and bear minimal or no risk of loss, such as direct obligations of the United States that mature within 15 months of the date of investment. The final rule revises this section to reflect an amendment to section 308(b) of the SBI Act (15 U.S.C. 687(b)) made by Public Law 108–447, Division K, section 202 (December 8, 2004) that allows an SBIC to invest ''in mutual funds, securities, or other instruments that consist of, or represent pooled assets of'' the various direct investment vehicles permitted by section 308(b). 15 U.S.C. 687(b)(3). For example, this provision allows an SBIC to invest idle funds in a money market account, as long as the money market fund invests exclusively in permitted instruments.

Section 107.855—Interest rate ceiling and limitations on fees charged to Small Businesses (''Cost of Money''). The final rule corrects an error by removing § 107.855(g)(10). This paragraph provided an exclusion from the Cost of Money calculation in the form of a cross-reference to the non-existent § 107.855(i).

Section 107.505—Facsimile requirement. The final rule eliminates duplication by removing § 107.505, which required an SBIC to have the capability to receive fax messages. This section repeated language already found in § 107.504(b).

Compliance With Executive Orders 12866, 12988 and 13132, the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget has determined that this rule is not a significant regulatory action under Executive Order 12866. This rule also is not a major rule under the Congressional Review Act (CRA).

Executive Order 12988

This action meets applicable standards set forth in Sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have retroactive or presumptive effect.

Executive Order 13132

For the purposes of Executive Order 13132, SBA has determined that this final rule will not have substantial direct effects on the States, or the distribution of power and responsibilities among the various levels of government. Therefore, SBA has determined that this final rule has no federalism implications warranting the preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Chapter 35

For purposes of the Paperwork Reduction Act (PRA), 44 U.S.C. chapter 35, SBA has determined that this rule

will not impose any new reporting or recordkeeping requirements. The requirement for SBICs to submit requests for conflict of interest exemptions is not an information collection as that term is defined by the PRA because the requests do not involve any standardized or identical reporting, recordkeeping or disclosure requirements. Rather, each request for exemption is unique to the circumstances of the particular SBIC. In any event, to the extent that SBICs have been required to submit conflict of interest exemptions under the circumstances described in this rule, that requirement no longer exists.

Compliance With the Regulatory Flexibility Act, 5 U.S.C. 601–612

When an agency promulgates a final rule following publication of the proposed rule, the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires the agency to prepare a final regulatory flexibility analysis (FRFA) which describes the potential economic impact of the rule on small entities and alternatives that may minimize that impact. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing a FRFA, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. This final rule affects all SBICs, of which there are currently 294, most of which are small entities. Therefore, SBA has determined that this rule will have an impact on a substantial number of small entities. However, SBA has determined that the impact on entities affected by the rule will not be significant. The new conflict of interest exception eliminates the requirement for SBICs to obtain a conflict of interest exemption for a particular type of transaction. This change is expected to reduce the regulatory burden on SBICs and allow them to close such financing transactions with less delay.

SBA asserts that the economic impact of the rule, if any, will be minimal and entirely beneficial to small SBICs. Accordingly, the Administrator of the SBA hereby certifies that this rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the Small Business Administration amends part 107 of title 13 of the Code of Federal Regulations as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

■ 1. The authority citation for part 107 continues to read as follows:

Authority: 15 U.S.C. 681 *et seq.,* 683, 687(c), 687b, 687d, 687g, 687m, Pub. L. 106–554, 114 Stat. 2763; and Pub. L. 111–5, 123 Stat. 115.

§ 107.505 [Removed]

■ 2. Remove § 107.505.

■ 3. Amend § 107.530 by redesignating paragraphs (b)(3) through (b)(6) as (b)(4) through (b)(7), and adding a new paragraph (b)(3) to read as follows:

§ 107.530 Restrictions on investments of idle funds by leveraged Licensees.

* * * * *

(b) *Permitted investments of idle funds.* * * *

(3) Mutual funds, securities, or other instruments that exclusively consist of, or represent pooled assets of, investments described in paragraphs (b)(1) or (b)(2) of this section; or

* * * * *

■ 4. Amend § 107.730 by revising paragraphs (a)(1) and (g) to read as follows:

§ 107.730 Financings which constitute conflicts of interest.

(a) * * *

(1) Provide Financing to any of your Associates, except for a Financing to an Associate that meets all of the following conditions:

(i) The Small Business that receives the Financing is your Associate, pursuant to paragraph (8)(ii) of the Associate definition in § 107.50, only because an investment fund that is your Associate holds a 10% or greater equity interest in the Small Business.

(ii) You and the Associate investment fund previously invested in the Small Business at the same time and on the same terms and conditions.

(iii) You and the Associate investment fund are providing follow-on financing to the Small Business at the same time, on the same terms and conditions, and in the same proportionate dollar amounts as your respective investments in the previous round(s) of financing (for example, if you invested $2 million and your Associate invested $1 million in the previous round, your respective follow-on investments would be in the same 2:1 ratio).

* * * * *

(g) *Public notice.* Before granting an exemption under this § 107.730, SBA will publish notice of the transaction in the **Federal Register**.

§ 107.855 [Amended]

■ 5. Amend § 107.855 by removing paragraph (g)(10) and redesignating current paragraphs (g)(11) through (g)(13) as (g)(10) through (g)(12).

Karen G. Mills,

Administrator.

[FR Doc. 2012–8017 Filed 4–3–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

22 CFR Parts 22 and 42

[Public Notice 7838]

RIN 1400–AD06

Revision to the Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates; Correction

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Interim Final Rule; Correction.

SUMMARY: This document contains a correction to the Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates published in the **Federal Register** on March 29, 2012 [Public Notice 7835].

DATES: Effective April 13, 2012.

FOR FURTHER INFORMATION CONTACT: Special Assistant, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–663–1576, telefax: 202–663–2526; email: *fees@state.gov.*

SUPPLEMENTARY INFORMATION:

Correction

The interim final rule published on March 29, 2012, 77 FR 18907–18914, is corrected as follows:

1. In the chart on pg. 18912 detailing the proposed fee changes, the total estimated change in annual fees collected amount, at the bottom of the far right column, is corrected so that the decimal places are correct. The correct figure is 94,813,970.

Dated: March 30, 2012.

Alexandra C. Gianinno,

Comptroller, Office of the Comptroller, Bureau of Consular Affairs, U.S. Department of State.

[FR Doc. 2012–8109 Filed 4–3–12; 8:45 am]

BILLING CODE 4710–06–P