NVCA SSBCI WORKING GROUP RECOMMENDATIONS FOR SSBCI 2.0 IMPLEMENTATION

Issues for Treasury Policy Guidelines:

We recommend that Treasury include proposals to address these issues in the regulatory process:

Create 90-day safe harbor post first close to count matching dollars.

- The contemporaneous close requirements in SSBCI 1.0 made financing rounds with SSBCI dollars more complex and expensive. Treasury could provide a 90-day safe harbor from the date of an SSBCI investment to close a financing round and count matching dollars.
    - ***Feedback:*** *Treasury could create a 90-day safe harbor in both directions – both before and after the SSBCI commitment – for funds raised from non-federal sources to count as matching funds. Companies can provide a certification that the funds were secured within the permitted timeframe.*

Allow eligibility to continue for businesses led by socially or economically disadvantaged individuals (SEDI) whose share of ownership falls under 50%.

- Ownership percentages held by founders of VC-backed companies often fall to less than 50% as the company grows and scales due to financings and employee incentives. Requiring that majority ownership be retained by SEDI founded enterprises will disadvantage those enterprises from securing the equity capital needed to scale. It is not a restriction being imposed upon non-SEDI founded enterprises and will trigger an unintended consequence of limiting the growth of those enterprises. SSBCI should allow the ownership percentages of SEDI-led enterprises to fall below 50% in order to avoid an unintentional barrier to capital formation.
    - ***Feedback:*** *Treasury could clarify that for SEDI companies receiving investment from an equity program, the ownership threshold can fall after initial financing. Companies should be deemed minority/women owned if the company founders were the majority owners of the enterprise when formed, such date to be the date of the secured EIN, and at the time application for SSBCI funds is made. Alternative metrics or some sort of pro rata formula could be used for judging whether a startup continues to be eligible.*

Allow broader utilization of SSBCI technical assistance resources.

- Utilize technical assistance resources to support fund managers who desire accessing SSBCI capital resources with a particular focus on managers who have a focus on providing capital to firms led by socially disadvantaged Americans.
    - ***Feedback:*** *Treasury could use some of their limited discretionary resources for TA for small funds. Treasury could also ask states to provide a plan for technical assistance to support emerging fund managers and SEDI-led VC funds.*

Match market standard for management fees.

- Smaller funds get particularly squeezed by lack of management fees, with many going years without salary to build their businesses. SSBCI 1.0 offered below market management fees. A sliding scale based upon fund size with terms closer to current commercial practices would make the program more accessible. This could include 2% annual fees for funds over $50 million in assets under management (AUM), and 2.5% for funds with less than $50 million AUM, with fees beginning to decline after five years. Treasury could also match current market practices by requiring that fees be repaid before funds can access carried interest.

- ***Feedback:*** *Treasury could request that states provide a plan for the use of funds to support fees for smaller and emerging funds.*
- ***Add'l feedback:*** *Could Treasury allow higher fees as the outset of the fund if there's a pledge to pay back fees in order to access carried interest?*

Standardize and clearly define reporting requirements and conflict of interest practices, and other disclosures.

- With the knowledge gained from SSBCI 1.0, Treasury can more clearly define reporting and conflict of interest requirements, ideally matching to the extent possible current commercial practices.
    - ***Feedback:*** *Treasury indicated that they were open to reviewing the extent to which reporting requirements and conflicts of interest can be more clearly defined and standardized. In subsequent conversation, there were concerns raised regarding who among the company's investors is needed to fill out the required forms as there is no defined threshold for the level of investment or ownership they must have in the enterprise. Members noted that the need to secure so many of these representations was a disincentive to making a deal, though it was unclear which requirements were state or federal.*

Ensure in the policy guidelines that the use of funds is explicitly for SEDIs in a manner that avoids the need for states to conduct any disparity study.

<u>Treasury FAQ's:</u>

We recommend that Treasury include FAQs to provide clarity on these issues:

Allow VC and debt tranches to be replenished based upon the circumstances of each program.

- Because debt and equity financing function differently, allowing states to replenish either program regardless of the status of the other program, or to let states transfer funds between programs, will provide flexibility and help the program more efficiently allocate capital in a timely fashion.
    - ***Feedback****: Treasury can clarify that states have the flexibility to lend between programs to remove any uncertainty through an FAQ.*

Match market standard for management fees.

- See above in Regulations section.
    - ***Feedback:*** *Treasury informed the group that they are limited by statute on fees, but that states can use funds to get fund administration fees closer to market. Treasury could release an FAQ to give states confidence in using state funds to address the issue.*

Encourage regional and multi-state partnerships.

- Often, regional startup ecosystems are based upon the geography of a city, as opposed to state lines. For instance, startup participants in the Kansas City region may be in Missouri or Kansas but are all part of the same regional ecosystem. Encouraging regional and multi-state partnerships will allow greater collaboration across a region that can drive better outcomes.

- ***Feedback:*** *Treasury could provide an FAQ to help states understand Treasury's position as they create their own plans. This could include highlighting that states are allowed to invest a small percentage of capital outside of their state to benefit the local ecosystem.*

Clarify that commitments to third party funds be considered deployed capital.

- A commitment to a third-party managed fund should meet the definition of funds obligated or transferred.
    - ***Feedback:*** *If committed capital is not considered deployed capital, Treasury will force the hand of the states and potentially mis-match the typical timeline for capital being called as needed over time vs. having to race to get it out the door by the states so as not to run afoul of this restriction.*

<u>State Best Practices:</u>

After the federal regulatory process, the NVCA SSBCI Working Group will develop a document exploring best practices that states can rely upon to set up effective equity programs. Issues under consideration include:

Allow broader utilization of SSBCI technical assistance resources.

- See above in Treasury Policy Guidelines section.
    - ***Feedback:*** *States can address this challenge by making resources available for technical assistance for emerging VC funds. The Working Group will also explore partnering with a nonprofit entity such as Venture Forward to solicit donations and create a central location for TA.*

Match market standard for management fees.

- See also above in Regulations and FAQ sections.
    - ***Feedback:*** *Encourage states to utilize state funds to supplement administrative fees to match market standards for VC funds. Treasury's actions on this issue will determine how this issue is addressed.*

Encourage regional and multi-state partnerships.

- See also above in FAQ section.
    - ***Feedback:*** *Encourage these partnerships through the state best practices document and work with any FAQ that is produced.*

Encourage DE&I Reporting.

- States should measure and report how SSBCI is addressing Diversity, Equity and Inclusion of underrepresented groups in investing and entrepreneurship.

<u>Committee Technical Corrections:</u>

The Working Group will also recommend several issues for Congress to consider for potential technical corrections:

Allow broader utilization of SSBCI technical assistance resources.

- See above in Treasury Regulations and State Best Practices sections.
    - ***Feedback:*** *Follow-up with Committee for technical corrections.*

Match market standard for management fees.

- See also above in Regulations and FAQ sections.
    - ***Feedback:*** *Encourage Congress to consider expanding the use of fees to match market standards for state equity programs.*

Conduct best practices review of program.

- Following the final tranche of capital disbursements, Treasury should conduct a holistic review of the program and memorialize best practices and areas of improvement for future policymakers to consider. In addition, Treasury should consider an additional review ten years after program implementation to gain a greater understanding of the impact of the program and better understand the long-tail impact of VC investment.
    - ***Feedback:*** *Request that Committee move the authorization from seven years to ten years to provide a more appropriate timeframe on the length of the program.*