

117TH CONGRESS  
1ST SESSION

# H. R. 3842

To establish a MicroCap small business investment company designation,  
and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2021

Mr. NEGUSE (for himself and Mrs. KIM of California) introduced the following  
bill; which was referred to the Committee on Small Business

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## A BILL

To establish a MicroCap small business investment company  
designation, 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 “MicroCap Small Busi-  
5       ness Investing Act of 2021”.

6       **SEC. 2. MICROCAP SMALL BUSINESS INVESTMENT COM-**  
7       **PANY DESIGNATION.**

8       (a) IN GENERAL.—Title III of the Small Business  
9       Investment Act of 1958 (15 U.S.C. 681 et seq.) is amend-  
10      ed—

1 (1) in section 301(c) (15 U.S.C. 681(c)), by  
2 adding at the end the following:

3 “(5) MICROCAP SMALL BUSINESS INVESTMENT  
4 COMPANY LICENSE.—

5 “(A) IN GENERAL.—Notwithstanding any  
6 other provision of law, the Administrator may  
7 approve an application and issue not more than  
8 10 licenses annually under this subsection with  
9 respect to any applicant—

10 “(i) that would otherwise be issued a  
11 license under this subsection, except that  
12 the management of the applicant does not  
13 satisfy the qualification requirements  
14 under paragraph (3)(A)(ii) to the extent  
15 that such requirements relate to invest-  
16 ment experience and track record, includ-  
17 ing any such requirements further set  
18 forth in section 107.305 of title 13, Code  
19 of Federal Regulations, or any successor  
20 regulation;

21 “(ii) for which the fund managers  
22 have—

23 “(I) a documented record of suc-  
24 cessful business experience;

1 “(II) a record of business man-  
2 agement success; or

3 “(III) knowledge in the par-  
4 ticular industry or business in which  
5 the investment strategy is being pur-  
6 sued; and

7 “(iii) that, in addition to any other re-  
8 quirement applicable to the applicant  
9 under this title or the rules issued to carry  
10 out this title (including section  
11 121.301(c)(2) of title 13, Code of Federal  
12 Regulations, or any successor regulation),  
13 will make not less than 25 percent of its  
14 investments in—

15 “(I) low-income communities, as  
16 that term is defined in section 45D(e)  
17 of the Internal Revenue Code of 1986;

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

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

24 “(IV) manufacturers;

1 “(V) businesses primarily owned  
2 or controlled by individuals in under-  
3 served communities before receiving  
4 capital from the applicant; and

5 “(VI) rural areas, as that term is  
6 defined by the Bureau of the Census.

7 “(B) PRIORITY; STREAMLINED PROCESS.—  
8 With respect to an application for a license pur-  
9 suant to this paragraph, the Administrator  
10 shall—

11 “(i) give priority to an applicant for  
12 such a license that is located in an under-  
13 licensed State; and

14 “(ii) establish a streamlined process  
15 for applicants submitting such an applica-  
16 tion.

17 “(C) TIMING FOR ISSUANCE OF LI-  
18 CENSE.—Notwithstanding paragraph (2), with  
19 respect to an application for a license submitted  
20 to the Administrator pursuant to this para-  
21 graph, the Administrator shall—

22 “(i) not later than 60 days after the  
23 date on which the application is submitted  
24 to the Administrator, process and provide  
25 complete feedback with respect to any pre-

1 license application requirements applicable  
2 to the applicant;

3 “(ii) not restrict the submission of  
4 any application materials; and

5 “(iii) not later than 90 days after the  
6 date on which the application is submitted  
7 to the Administrator—

8 “(I) approve the application and  
9 issue a license for such operation to  
10 the applicant, if the requirements for  
11 the license are satisfied; or

12 “(II) based upon facts in the  
13 record—

14 “(aa) disapprove the appli-  
15 cation; and

16 “(bb) provide the applicant  
17 with—

18 “(AA) a clear, written  
19 explanation of the reason for  
20 the disapproval; and

21 “(BB) a chance to rem-  
22 edy any issues with the ap-  
23 plication and immediately  
24 reapply, with technical as-  
25 sistance provided as needed

1 and a new determination  
2 made by the Administrator  
3 not later than 30 days after  
4 the date on which the appli-  
5 cant re-submits the applica-  
6 tion.

7 “(D) LEVERAGE.—A company licensed  
8 pursuant to this paragraph shall—

9 “(i) not be eligible to receive leverage  
10 in an amount that is more than  
11 \$25,000,000; and

12 “(ii) access leverage in an amount  
13 that is not more than 100 percent of the  
14 private capital of the applicant.

15 “(E) INVESTMENT COMMITTEE.—

16 “(i) IN GENERAL.—Each company li-  
17 censed pursuant to this paragraph shall  
18 have not fewer than 2 independent mem-  
19 bers on the investment committee of the  
20 company in a manner that complies with  
21 the following requirements:

22 “(I) The independent members of  
23 the investment committee are or have  
24 been licensed managers of small busi-

1           ness investment companies within the  
2           preceding 10-year period.

3           “(II) No small business invest-  
4           ment company described in subclause  
5           (I) may adversely affected by the rela-  
6           tionship of the independent members  
7           of the investment committee with the  
8           company licensed pursuant to this  
9           paragraph.

10          “(III) The independent members  
11          of the investment committee are re-  
12          quired to approve each investment  
13          made by the company.

14          “(IV) The independent members  
15          of the investment committee shall not  
16          be paid a management fee, but may  
17          receive paid expenses and a portion of  
18          any carried interest.

19          “(ii) LEVERAGE LIMITS.—Any lever-  
20          age associated with a company licensed  
21          pursuant to this paragraph shall not be  
22          counted toward the leverage limits of the  
23          independent members of the investment  
24          committee of the company under this  
25          title.”; and

1           (2) in section 303(d) (15 U.S.C. 683(d)), by in-  
2       serting “(or, with respect to a company licensed  
3       under section 301(c)(5), 50 percent)” after “25 per-  
4       cent”.

5       (b) SBA REQUIREMENTS.—

6           (1) DEFINITIONS.—In this subsection—

7               (A) the term “Administrator” means the  
8       Administrator of the Small Business Adminis-  
9       tration; and

10              (B) the term “covered company” means an  
11       entity that is licensed to operate as a small  
12       business investment company pursuant to para-  
13       graph (5) of section 301(c) of the Small Busi-  
14       ness Investment Act of 1958 (15 U.S.C.  
15       681(c)), as added by subsection (a).

16       (2) RULES.—Not later than 90 days after the  
17       date of enactment of this Act, the Administrator  
18       shall issue rules to carry out this section and the  
19       amendments made by this section.

20       (3) ANNUAL REPORT.—Not later than 1 year  
21       after the date of enactment of this Act, and annually  
22       thereafter, the Administrator shall publicly publish a  
23       report that details, for the year covered by the re-  
24       port—



1           (A) the number of covered companies li-  
2 censed by the Administrator;

3           (B) the industries in which covered compa-  
4 nies have invested;

5           (C) the geographic locations of covered  
6 companies; and

7           (D) the aggregate performance of covered  
8 companies.

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