New Jersey Innovation Evergreen Fund (NJIEF) Investment Frequently Asked Questions

These FAQs are provided as a courtesy to assist interested parties to understand the NJIEF program. This FAQ does not purport to summarize the entire NJIEF statute, rules, polices, or agreements.

NJIEF Investment General Questions

1. **How can venture firm applicants access NJIEF program co-investment capital?**

Venture firms interested in accessing NJIEF program capital will apply for certification as a Qualified Venture Firm (QVF) under the program. Certification will enable QVFs to apply for co-investment funding to make Qualified Investments (QIs) in high-growth, innovative New Jersey Qualified Businesses.

QVFs must match or exceed program QI amount from their Qualified Venture Firm Active Fund (see FAQ #23) on a basis of at least 1:1. For example, if a QVF invests $5M into a Qualified Business, they may receive up to $5M in additional matching co-investment capital through the NJIEF. Applicant firms can apply for certification prior to identifying a potential Qualified Investment or contemporaneously with an application for a QI.

2. **What are NJIEF Qualified Investments?**

Qualified Investments are investments of capital by the NJIEF, through an Evergreen Special Purpose Vehicle (SPV), in conjunction with a QVF's matching equity investment in a Qualified Business. The QI includes the right to make a follow-on investment at a later date and may include option or warrant rights. The exercise of the option or warrant, or the decision to make a follow-on investment, shall be in the discretion of the NJEDA.

3. **What is a Qualified Business?**

Only Qualified Businesses may receive NJIEF investment capital. Qualified Businesses are high-growth businesses that, at the time of the first Qualified Investment in the business and throughout the Qualified Business Compliance Period, is registered to do business in this State; has its principal business operations located in the State and intends to maintain its principal business operations in the State after receiving a Qualified Investment under the program; is engaged in a targeted industry; and employs fewer than 250 full-time employees at the time of the Qualified Investment.

4. **Is there a limit to the amount of initial investments from NJIEF?**

   Yes, the maximum amount of a QI in a Qualified Business and any affiliates of the Qualified Business shall not exceed $5,000,000, except that such $5,000,000 limit shall be increased to $6,250,000 if the qualified business: i. Utilizes intellectual property that is core to its business model and was developed at a New Jersey-based college or university; ii. Is considered a university spin-off business, as determined by the Authority; or iii. Is certified by the State as a "minority business" or a "women's business" pursuant to P.L. 1986, c. 195 (N.J.S.A. 52:27H-21.17 et seq.). An initial QI shall not be less than $100,000.

5. **How much capital can QVFs access from the NJIEF per year?**

   QVFs can access up to a total of up to $12.5M in matching co-investment capital for up to two Qualified Investments per calendar year through the program. The date investments are approved by the Authority Board will be used to evaluate the two initial investments per calendar year. Follow-on investments do not count against the two investment per year limit. Concentration limits are further described in FAQ #16 and follow-on investment limits are further described in FAQ #49.

6. **How often can QVFs access NJIEF capital?**

   QVFs can make up to two program QIs per year. QVFs may also access up to $6.25M in follow-on investment per QI, per year, depending on reserve projections provided by the QVF as part of its annual reporting requirements to NJEDA, and subject to program limits.

7. **When can venture firm applicants apply to be certified as a QVF?**

   Venture firms can apply to be certified as a QVF on a rolling basis. There is no deadline to apply.

8. **Are application fees required?**

   No, there are no application fees required for the program. However, venture firms and businesses may be required to pay the full amount of direct costs of due diligence, including, but not limited to, debarment/disqualification reviews or other analyses by a third party retained by the Authority, if the Authority deems such retention to be necessary.

9. **Does each fund under management by an applicant venture firm need to apply separately for certification as a Qualified Venture Firm?**

   No, QVF certifications are made at the firm level. Applications will include fund-specific information about the Qualified Venture Firm Active Fund, defined in FAQ #23. Venture firms with a family of fund products, such as an early-stage fund and a late-stage fund, may also submit one application on behalf of the firm.

10. **How can QVFs and Qualified Businesses benefit from access to NJIEF corporate tax credit purchasers?**

All program corporate tax credit purchasers must nominate a representative to serve on the New Jersey Innovation Evergreen Advisory Board, a body established in but not of the Authority for the purposes of providing guidance and networking opportunities to Qualified Businesses, and design a strategic commitment to strengthen the State's innovation ecosystem. QVFs and Qualified Businesses can gain access to ecosystem-building opportunities with members of the Advisory Board through select strategic commitments and Advisory Board meeting sessions that help broaden and deepen their activities within New Jersey.

11. **Does the QVF or the Qualified Business submit a program application for Qualified Investment?**

The Qualified Venture Firm will submit the Qualified Investment application. The application will include information about the QVF and the Qualified Business, which QVFs will collect from the Qualified Business. For example, the QVF will submit a Chief Executive Officer certification form signed by the Qualified Business, attesting to the truthfulness of the information provided about the business in the application.

12. **How much program capital is currently available for Qualified Investments?**

NJIEF unallocated capital available for new investments is published at the program's website.

13. **Can multiple QVFs receive program capital to invest in the same Qualified Business?**

Yes, QVF applications will be approved on a first-come, first-served rolling basis until the initial investment dollar limit is reached for any given eligible business. Multiple firms can invest into the same Qualified Business up to a $5,000,000 aggregate initial investment limit, or $6,250,000 limit for select types of companies as described in FAQ #4, if the investments occur in the same fundraising round.

14. **Can QVFs receive program capital for initial Qualified Investments to invest in subsequent fundraising rounds of current portfolio companies?**

Any initial Qualified Investment by the program must be matched by the QVF's Active Fund initial investment in a Qualified Business for the purchase of shares of stock. In instances where the QVF's Active Fund or affiliate has previously provided capital to a Qualified Business through Simple Agreements for Future Equity (SAFEs) or convertible notes, the Program may match the QVF's Active Fund's subsequent investment in the Qualified Business, so long as the investment represents the fund's initial investment in the business for the purchase of shares of stock.

The aggregate amount of a QVF Active Fund's initial purchase of shares of stock in the Qualified Business must be greater than, or equal to, the aggregate amount of capital a QVF Active Fund or affiliate has previously provided to the Qualified Business, excluding in-kind services provided.

15. **Can a QVF-managed investment vehicle invest into a single business only, with an expectation of approval for matching funds (Qualified Investment) from the Evergreen program?**

A QVF-managed investment vehicle that receives greater than 50% of its capital from investors that have directly invested (or invested through an investment vehicle they or a close family member control or directs) in a prior financing round of the proposed Qualified Business, constitutes a prior investment by a QVF, and therefore would not be eligible for program capital. For purposes of calculating this percent, QVFs may be asked to provide a list of investors and capital commitments to its Qualified Venture Firm Active Fund, a capitalization table of the proposed Qualified Business, a list of other entities that members of the QVF's investment team are managing, or have previously managed, that have provided capital to the proposed Qualified Business, and other documents that the Authority may determine necessary to determine Program eligibility.

16. **Does the NJIEF have concentration limits in place?**

Yes, to mitigate concentration risk, QVFs may only receive aggregate program capital across investments of up to 15 percent of the firm's total assets under management to be tested at the time of initial and follow-on investment applications.

The program also limits aggregate investments into any Qualified Business to 10 percent of program uninvested and invested capital, to be tested at the time of applications for follow-on investments.

17. **When will the Authority review Qualified Investment applications?**

QI applications will be reviewed by NJEDA staff on a rolling basis. QVFs may apply for QI capital either before executing an investment through its Qualified Venture Firm Active Fund, or within 90 days of closing. However, QVFs must have at least begun negotiations over a draft term sheet with a business before applying for a QI.

In all cases, an executed stock purchase agreement must be submitted by QVFs before any NJIEF capital is disbursed. QIs must be part of the same fundraising round and on equal terms as the investment made by the Qualified Venture Firm Active Fund.

18. **How does the NJEDA determine the date of the initial investment date by a QVF?**

The Authority will examine executed stock purchase agreements to establish the initial investment date of the QVF's investment. Applications for Qualified Investments will not be accepted if the QI application is received more than 90 days from the initial investment date.

The initial investment date will be determined by the conclusion of the initial investment round participated in by the QVF. For example, if a QVF participates in multiple closes of the same investment round of a Qualified Business, the initial investment date will be determined by the QVF's final investment date of the investment round. Investments will not be considered part of the same investment round if they occur on different terms or if the length of time between the initial close date and subsequent investments exceeds 90 days.

19. **What structure will NJIEF Qualified Investments take?**

NJIEF initial Qualified Investments will be limited to the purchase of shares of stock, which may include option or warrant rights, all of which is matched by the initial investment by a Qualified Venture Firm. QVF initial investments through Simple Agreements for Equity (SAFEs) and convertible notes will not qualify for this program. However, the Authority may make non-equity follow-on investments, which may include the exercise of an option, warrant, or similar security, with approval from the Board of the Authority.

The NJEDA has alternative programs to match convertible note investments. To learn more, please reach out to NJIEF@njeda.com.

20. **Is there a maximum limit to the size of the QVF's investment into a Qualified Business?**

No, the Qualified Venture Firm Active Fund may make investments in Qualified Businesses in excess of the amount invested by the NJIEF. The size of any NJIEF investment will be capped, as described in FAQ #4.

21. **Is there a minimum size of program Qualified Investments?**

Yes, in no event shall the Authority make a QI of less than $100,000 per initial investment.

22. **In what form of structure will program Qualified Investments be made?**

Once a QVF is approved to apply for a QI, the QVF will establish and manage an SPV to invest NJIEF capital. All Evergreen SPVs will be established in New Jersey.

Each SPV will be governed by an Evergreen Operating Agreement (SPV Agreement) that will incorporate terms from the governing documents of the Qualified Venture Firm's Active Fund (typically the limited partnership agreement) that will co-invest alongside the Evergreen SPV. QVFs may call capital to an Evergreen SPV to fund the approved QI and pay management fees and direct administrative expenses as described in FAQ #25.

23. **What is a Qualified Venture Firm Active Fund?**

A Qualified Venture Firm Active Fund is an entity managed by the QVF or an affiliate of the QVF from which the QVF invests in a Qualified Business alongside the QI of the NJIEF.

24. **What are the terms of the Evergreen SPV managed by the QVF, including management fee and carried interest rates?**

Each Evergreen SPV Agreement will incorporate select terms, such as management fee rates, carried interest rates, and key person provisions from the governing documents of the Qualified Venture Firm's Active Fund that will co-invest alongside the Evergreen SPV, subject to a program limit. NJIEF carried interest and management fee rates will be capped at 30 percent and 2.5 percent, respectively. If fees vary over the life of the Qualified Venture Firm Active Fund, these caps will apply in each year of the Evergreen SPV's fund life. The Authority will make management fee payments on a quarterly basis.

25. **Will the NJEDA cover direct administrative costs of the Evergreen SPV in addition to management fee payments?**

Yes, the program will pay up to $25,000 per special purpose vehicle for one-time formation and wind down costs (in total), and $12,500 per special purpose vehicle per year for the life of the special purpose vehicle for ongoing administrative costs such as an annual audit of the Evergreen SPV's financial statements. The QVF must cover any costs that exceed these limits.

26. **What is the mechanism by which the program will fund Qualified Investments, management fees, and direct SPV administrative expenses?**

Qualified Venture Firms will issue capital calls to the NJEDA to fund Qualified Investments, pay management fees and direct SPV administrative expenses. QVFs should follow the same capital call cadence as the Qualified Venture Firm Active Fund, as documented in the SPV formation documents. At the time of Qualified Investment application, QVFs will provide the NJEDA with a management fee schedule.

Venture Firm Eligibility Criteria

27. **What are the primary eligibility requirements for certification as a program QVF?**

QVFs must employ at least two full-time investors with the authority to direct investment capital with at least five years of professional money management experience (each) at the time of application (as further clarified in FAQ #29).

QVFs must also demonstrate at least $10,000,000 in assets under management, measured as the sum of equity capitalization of funds managed by the qualified venture firm or an affiliate of the qualified venture firm, net assets of funds managed by the qualified venture firm or an affiliate of the qualified venture firm, or written commitments of cash or cash equivalents at the time of application.

Additionally, QVFs must be in compliance with the requirements of any agreement, whether related to the NJIEF program or otherwise, with the NJEDA. Applications that meet the NJIEF minimum requirements will be scored on the program's weighted criteria evaluation model to ensure venture firms meet the program's minimum acceptable score.

28. **What types of verification documents can applicants provide to demonstrate they meet the program's requirement to maintain at least $10,000,000 in assets under management?**

To demonstrate that firms meet the minimum assets under management described in FAQ #27 applicants may provide their most recent annual audited financial statement (within the past twelve months) prepared by an independent Certified Public Accountant (CPA). Applicants will also provide a list of all funds managed or controlled by the venture firm and their most recent quarterly financial statements.

Firms that do not have audited annual financial statements, for example firms raising their first fund, may provide alternative forms of documentation acceptable to the NJEDA, such as executed subscription documents, independent CPA prepared quarterly financial statements for the most recent available quarter, or fund financials prepared by a third-party fund administrator, to demonstrate they satisfy the requirement. Similarly, firms unable to provide executed subscription documents may provide alternative forms of documentation acceptable to the NJEDA, as described above.

29. **What types of experience will satisfy the eligibility requirement of employing at least two full time investors with at least five years of professional money management experience?**

Professional money management experience shall include, but is not limited to, operational and investment oversight, in the venture capital or private equity sectors, including but not limited to, investment firms, investment bank, asset management or similar investment management institution or family office funds.

Significant angel experience may also satisfy the requirement. To be significant, angel investment experience shall consist of a minimum of $100,000 of aggregate investments and two investments per year over the prior five years. The experience shall be met as of the date the determination for certification is made.

30. **What types of verification documents can applicants provide to demonstrate they meet the program's requirement to maintain at least two-full time investors with at least five years of professional money management experience?**

To demonstrate that firms meet the minimum investment experience requirements described in FAQ #29, applicants may provide current and past organizational charts of the venture firm, or other official forms of documentation shared with Limited Partners such as a Private Placement Memorandum. If firms are unable to provide such documentation, they may also provide a detailed work history and employment references of the senior management team of the venture firm and of the principals, managers and employees that will direct qualified investments.

31. **What type of investment firms may apply to be certified as a QVF?**

Investment firms that meet the program eligibility requirements and meet or exceed the program minimum acceptable score through the weighted criteria evaluation model may be certified as a QVF, such as: 1) venture capital firms, such as early-stage venture capital firms, later-stage venture capital firms, and other private equity firms making minority-stake investments such as growth equity firms, 2) family office funds, and 3) corporate investor funds. In all cases, a professional manager must administer the investment firm.

32. **Can corporate investor funds or family office funds without a traditional fund structure become a QVF?**

As noted in FAQ #31, corporate investor funds and family office funds may be certified as Qualified Venture Firms as long as they meet all program eligibility requirements. As noted in FAQ #22 and #24, the Evergreen SPVs will incorporate key terms from the QVF Active Fund Agreements, such as a Limited Partnership Agreement.

Additionally, QVFs are subject to the following provisions: 1) If QVF Active Funds lack a defined fund life, each QI held within an Evergreen SPV will be subject to a maximum holding period of no more than 10 years from when the QI was made. With NJEDA written approval and at NJEDA's discretion, there is the possibility of three 12-month extensions to the original 10-year holding period; 2) If the QVF Active Fund Agreement lacks a management fee or carried interest rate, the Evergreen SPV will not pay a management fee or carried interest; and 3) If a QVF Active Fund Agreement lacks a key person provision, the Authority shall determine whether to introduce one in the relevant Evergreen SPV at its discretion based on the Program certification requirements and the importance of individuals to the sourcing, making, managing, and exiting from the QVF Active Fund investments.

Corporate investor funds and family office funds each should be aware of, and carefully consider, all the relevant obligations and duties contained within applicable local, state, and federal regulations and laws prior to applying to be certified as a QVF.

33. **Must venture firms have a location in New Jersey to be a QVF?**

No, QVFs are not required to maintain a physical place of business in New Jersey. However, QVFs will be required to host, at minimum, quarterly virtual or in-person meetings with prospective New Jersey-based portfolio companies. This requirement may be satisfied by the QVF's own investment sourcing efforts, or by participating in quarterly virtual or in-person office hours with New Jersey-based founders arranged in collaboration with the Authority. Additionally, QVFs shall make best efforts to have a representative attend in person, at least one time a year, a New Jersey Founders & Funders event. These events, organized semiannually by the Authority, introduce investors to innovative emerging New Jersey companies.

QVFs must also be registered to do business in New Jersey and maintain a valid New Jersey Tax Clearance Certificate. Certificates may be requested through the State of New Jersey's online Premier Business Services (PBS) portal. Under the Tax & Revenue Center, select Tax Services, then select Business Incentive Tax Clearance. CLICK HERE for instructions on how to secure your tax clearance certificate.

34. **Can foreign investment firms be certified as QVFs?**

Yes, foreign investment firms may be certified as QVFs if they meet program eligibility requirements and the program minimum acceptable score through the weighted criteria evaluation model.

As explained in FAQ #33, all QVFs must be registered to do business in New Jersey and maintain a valid New Jersey Tax Clearance Certificate. Instructions on how to secure your tax clearance certificate are available here. Additionally, QVFs must maintain an office, such as a home or physical office, in the continental United States.

35. **Will participation in or application for another NJEDA program by the Qualified Venture Firm or Funding of the Qualified Investment preclude participation in the Evergreen program?**

No, successful participation by a venture firm or business is not limited by the Evergreen program rules. However, the Qualified Venture Firm Agreement includes a cross-default provision with any existing assistance and any future assistance provided by the NJEDA or the State to the QVF and any of its affiliates, including, but not limited to, entities that have common principals. Additionally, prospective applicants and participants should check the rules of other programs before apply to participate in the Evergreen program.

Venture Firm Weighted Criteria Scoring Model

36. **How will Qualified Venture Firm applications be scored?**

QVFs must meet the NJIEF's minimum acceptable score on its weighted criteria scoring model, which will be used to evaluate the proposed Qualified Venture Firm and its affiliates. Venture firm applicants with diversity, equity, and inclusion policies that have been in place for at least one year will have a higher potential score and minimum acceptable score than firms with a newly created policy. It will not be possible for firms to achieve the minimum acceptable score without robust diversity, equity, and inclusion policies compared against the publicly available DE&I Policy Demonstration Framework Tool, as described in FAQ #37.

37. **How will the NJEDA review venture firm applicants' Diversity, Equity, and Inclusion (DE&I) policies?**

Applicant venture firm Diversity, Equity, and Inclusion (DE&I) policies will be reviewed by the NJEDA's Diversity, Equity, and Inclusion Department, using the program's publicly available DE&I Policy Demonstration Framework Tool.

DE&I policies must meet at least four of ten eligibility criteria to demonstrate an internal or investment DE&I policies eligible to receive points through the program's weighted criteria scoring model.

QVFs with DE&I policies will be tested annually to ensure they are making demonstrable best efforts to achieving their policy. QVFs that fail to demonstrate satisfactory scoring may be decertified.

38. **What is the difference between an internal and investment DE&I Policy?**

An internal DE&I policy guides diversity, equity, and inclusion within the venture firm. For example, a policy that addresses diverse talent recruitment or retention.

An investment DE&I policy guides diversity, equity, and inclusion within venture firm's portfolios. For example, a policy that tracks diversity metrics of portfolio company senior management.

39. **What sort of activities will be considered to receive points for prior participation in NJEDA innovation programs or functions through the weighted criteria scoring model?**

Applicants will receive points through the weighted criteria scoring model for demonstrating leadership in the State's innovation ecosystem through prior participation in NJEDA programs to support targeted industries and the innovation ecosystem, such as New Jersey Founders and Funders, New Jersey Golden Seeds, or NJEDA organized roundtable events. See the weighted criteria scoring model for specific scoring.

40. **How will the venture firm applicants' prior financial performance be evaluated?**

    The program will evaluate prior fund performance based on each fund's Total Value to Paid-In (TVPI) multiple. All performance metrics will be evaluated net of fees and carried interest payments and will be compared to North American Venture Capital fund performance of the relevant vintage year, as reported in Pitchbook's most recent quarterly benchmark report.

41. **What types of prior work experience will be considered relevant experience working in a targeted industry?**

    Venture firm applicants may receive points through the weighted criteria scoring model if at least one member of the firm's senior management team (Managing Partner, General Partner or equivalent) can demonstrate experience in operating roles within a targeted industry, such as Founder, Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Chief Technology Officer, or Product Manager.

42. **Will venture firm applicants receive points through the weighted criteria scoring model if they maintain a home office in the State?**

    Venture firm applicants that lack a commercial office may receive points if at least one senior investor (Managing Partner, General Partner or equivalent) can demonstrate full-time residency in the State.

43. **What types of prior shared work experience among venture firm applicant senior management teams will be considered relevant?**

    Venture firm applicants may receive points through the weighted criteria scoring model if fulltime members of the firm's senior management team (Managing Partner, General Partner or equivalent) can demonstrate shared experiences including working together at the same investment firm or business, making investments together, or cooperating on projects.

44. **How may venture firm applicants demonstrate they have formally raised capital for the Qualified Venture Firm Active Fund?**

    Venture firm applicants will receive points through the weighted criteria scoring model if they have completed a first close of the Qualified Venture Firm Active Fund as demonstrated with subscription agreements, bank statements, or other verifiable third-party documentation.

44b. How may venture firm applicants demonstrate they have previously raised and invested an institutional fund?

To receive points for this category firms must be at least raising their second fund and have previously raised and invested a prior institutional fund. Prior institutional funds will be venture capital funds, family office funds, or corporate investor funds. Individual investments, such as those managed through a single portfolio company Special Purpose Vehicle, will not be considered a prior institutional fund. Allowable supporting documentation will include annual audited financial statements, independent CPA prepared quarterly financial statements, a private placement memorandum, or alternative forms of documentation acceptable to the NJEDA.

45. **What does it mean for venture firm applicants to create a policy to dedicate a greater portion of their Qualified Investments (QIs) into Qualified Businesses located in New Jersey incentive areas?**

Venture firm applicants that create and provide a clear policy to dedicate a greater portion of their NJIEF program QIs into Qualifed Businesses located in New Jersey incentive areas will receive related points through the program's weighted criteria scoring model.

Venture firms must first establish a baseline of recent historical investment activity in New Jersey incentive areas over the past five years and establish a policy certifying their NJIEF program investment activity will target an increased proportion of investment activity in New Jersey incentive areas. Firms that meet the requirements for this criterion will be tested annually to ensure they make demonstrable best efforts to achieve their policy targets.

46. **What are New Jersey incentive areas?**

New Jersey incentive areas are: (1) Planning Area 1 (Metropolitan) locations pursuant to the New Jersey State Planning Act and (2) designated qualified opportunity zones. New Jersey incentive areas can be identified through the following mapping tool.

Follow-on Investments

47. **Will the NJIEF reserve for follow-on investments?**

Yes, the NJIEF requires pro-rata rights for follow-on investments and will reserve for follow-on investments in lockstep proportion with the Qualified Venture Firm Active Fund, up to the program limits as described in FAQ #49. QVFs shall inform Evergreen program staff of the amount reserved by the Qualified Venture Firm Active Fund at the time of investment, and shall provide periodic updates concerning this amount, but not less than annually.

48. **What is the process to apply for follow-on investment capital?**

Applicants may apply for follow-on investment capital by submitting an online application. The NJIEF may not make follow-on investments if QVFs or Qualified Businesses fail to remain in program compliance, unless such investments are deemed by the Board of the Authority to be in the best interest of the State. A full description of the NJIEF follow-on investment evaluation process is available here.

49. **Does the program limit the size of follow-on investments?**

Yes, the maximum program follow-on investment into a Qualified Business shall not exceed the lesser of: i. the cap on the Qualified Investment (e.g. $5,000,000 or $6,250,000) on an aggregate basis of follow-on investments in a twelve-month period; ii. 10 percent of invested plus uninvested capital of the Evergreen Fund; and iii. 15 percent of the total invested with the QVF by all of its investors, including investments in any Evergreen SPVs (total assets under management).

Qualified Business Eligibility Criteria

50. How will the NJIEF program determine if a business is high growth?

To meet the program's high-growth test, Qualified Businesses must demonstrate trailing twelvemonth revenue or customer growth of at least 25% as of the most recent quarter-end, or valuation growth of 25% since their prior fundraising round to that of the prospective QI.

If a Qualified Business has less than one year of revenue and customers, and has not previously raised third-party equity capital, QVF base case projections may be used to demonstrate high growth. In these cases, the QVF's own base case underwriting analysis of the QI must forecast an annual growth rate, or compound annual growth rate of at least 25%, in any year over the next three to five years for revenue, customer, or valuation growth.

Applicants shall agree to submit to the Authority any updated trailing twelve-month quarter-end revenue or customer growth results, valuation growth results, or QVF base case underwriting projections through the date of the determination an approval of a QI is made and as may be required by the Authority.

Revenue means revenue recognized in conformity with Generally Accepted Accounting Principles (GAAP) in the United States and reported on the Qualified Business's audited or reviewed consolidated income statement.

51. **Do Qualified Businesses need to be based in New Jersey?**

Yes, at the time of investment, all Qualified Businesses must have its principal business operations in New Jersey, defined as any of the following: i) at least 50 percent of its full-time employees reside in New Jersey, ii) at least 50 percent of the business's payroll (defined as wages) for full-time employees is paid to individuals living in the State, iii) at least 50 percent of its full-time employees filling a position in the State, or iv) at least 50 percent of the business's payroll (defined as wages) for full-time employees is paid to individuals filling a position in the State. Qualified Businesses must also agree to maintain its principal business operations as well as a place of business in New Jersey, such as an office, manufacturing facility, or co-working space, throughout the Qualified Business Compliance period, as described in FAQ #59.

52. **What does the program define as full-time employees?**

Full-time employee means a person who is in a position in the United States that is employed by a Qualified Business on a permanent or indefinite basis for consideration for at least 35 hours a week, or any other standard of service generally accepted by custom or practice, as determined by the NJEDA, as full-time employment, or who is a partner of a Qualified Business who works for the partnership for at least 35 hours a week, or any other standard of service generally accepted by custom or practice, as determined by the NJEDA, as full-time employment.

A full-time employee shall not include any person who works as an independent contractor or on a consulting basis for qualified business; any person who works as an intern, as a temporary employee, or in a temporary position; or any employee in a position that is primarily engaged in final point-of-sale retail.

53. **In which sectors will the NJIEF invest?**

Qualified Investments will be restricted to businesses operating in one of the following program targeted industries: advanced transportation and logistics, advanced manufacturing, aviation, autonomous vehicle and zero-emission vehicle research or development, clean energy, life sciences, hemp processing, information and high technology, finance and insurance, professional services, film and digital media, non-final point of sale retail food and beverage businesses, including food innovation, and other innovative industries that disrupt current technologies or business models. Further detail may be reviewed here (link opens PDF): https://www.njeda.com/wp-content/uploads/2021/05/Appendix-C-Targeted-IndustriesDefinitions.pdf.

Qualified Business shall be considered to be in a targeted industry if the business is engaged primarily in a targeted industry.

54. **Will the NJIEF invest in both early-stage and growth-stage Qualified Businesses?**

The program may make investments into Qualified Businesses across financing rounds (Series Seed, Series A, Series B, Series C, etc.) if the Qualified Business meets all program eligibility requirements. As described in FAQ #19, program Qualified Investments will be limited to the purchase of shares of stock, which may include option or warrant rights. Initial investments as Simple Agreements for Equity (SAFEs) and convertible notes will not qualify for this program.

However, the Authority may make non-equity follow-on investments, which may include the exercise of an option, warrant, or similar security, with approval from the Board of the Authority.

55. **What is a university spin-off business?**

A university spin-off business is a business whose primary function is to commercialize proprietary intellectual property developed at a New Jersey-based college or university, or a business that was created by a then current faculty member or then currently enrolled student utilizing the facilities and/or resources of such college or university.

To be a university spin-off business, the business must have been formed less than 10 years prior to the date of the Qualified Investment application. Formation shall be based on the earliest use of the intellectual property of a predecessor entity, irrespective of the corporate structure or tax status of the business.

56. **Are businesses with international operations eligible to receive program capital?**

Yes, international companies may be eligible to receive program capital if they meet the requirements of a Qualified Business. These requirements may not be satisfied through an affiliate company, nor may a program Qualified Investment be made into an affiliate company. Qualified Businesses must have and maintain principal business operations in New Jersey, which is described in noted in FAQ #51. As described in FAQ #52, the program does not consider employees based outside the United States when determining the size of the business or if an applicant's principal business operations are in the State.

Additionally, Qualified Businesses must maintain a place of business in the State, such as an office, manufacturing facility, or co-working space, and a valid New Jersey Tax Clearance Certificate.

57. **Are proposed Qualified Businesses that work entirely remotely eligible to receive program capital?**

No, as noted in FAQ #51, all Qualified Businesses must maintain a place of business in New Jersey.

Compliance and Reporting

58. **What are the reporting requirements for Qualified Businesses that receive program Qualified Investments?**

    As described in FAQ #51, Qualified Businesses must maintain its principal business operations as well as a place of business in New Jersey throughout the Qualified Business Compliance Period. To demonstrate compliance annually, Qualified Businesses shall provide a list of all full-time employees as of the end of the preceding calendar year, including, but not limited to, employee residency, payroll records, a copy of New Jersey WR-30 and Federal Form 941 for all quarters, and offer letters for any new full-time employee hired after the filing of such forms. For any Qualified Investment in which the QVF no longer has a position as of the end of the calendar year, the information must be provided as of the date the investment was terminated.

    Reports must be certified by an independent Certified Public Accountant. Additionally, Qualified Businesses must provide documentation, such as a lease agreement, demonstrating they maintain a place of business in the State. Qualified Businesses may provide this information directly to the NJEDA, or to the QVF for inclusion in the QVF's annual report to the NJEDA. The required reporting requirement begins with the start of the Qualified Business Compliance Period, which begins when a Qualified Investment is funded.

59. **What is the Qualified Business Compliance Period?**

    The Qualified Business Compliance Period is the period starting with the QI in a Qualified Business and ending on the sale or other disposition of all shares of stock of the Qualified Business from the Evergreen SPV, including any distribution of the shares to the NJEDA.

    If the distribution of the shares of stock from the Evergreen SPV to the NJEDA occurs in less than five years after the QI, the Qualified Business Compliance Period shall be five years or such other shorter Qualified Business Compliance Period determined by the NJEDA, which may be based on factors including, but not limited to, the number of the Qualified Business full-time employees filling a position in New Jersey.

60. **What is the consequence if a Qualified Business leaves the State before the end of the Qualified Business Compliance Period?**

    During the Qualified Business Compliance Period, the Qualified Business must maintain a place of business and its principal business operations in New Jersey (as described in FAQ #51).

    If Qualified Business fails to do so for two consecutive years, the NJEDA may exercise its right of redemption to require the Qualified Business to redeem the shares purchased with the QI and any follow-on investments for an amount equal to the greater of the QI plus follow-on investments or the fair market value of the shares at the time of the redemption demand. If the

QVF or any other investor offers to purchase the shares for the same amount as set forth above, the NJEDA may accept such purchase instead of redemption.

61. **How will Fair Market Value of privately-held securities be determined in cases of redemption?**

Fair Market Value of privately-held securities shall be determined using the following method of valuation: (1) if the Qualified Business has offered equity securities within the last twelve months of the day in question, the value of the equity securities reflected by the post-money value of the Qualified Business on a fully-diluted basis, or (2) if the conditions in clause (1) do not exist and if there has been no offering of securities of any kind for the Qualified Business in the last twelve months, the Fair Market Value for any privately-held securities shall be as stated in the most recent audited financial statements of the Qualified Venture Firm Active Fund so long as such financial statements are prepared in accordance with U.S. Generally Accepted Accounting Principles (GAAP). If neither of the conditions in clauses (1) or (2) of the previous sentence exist, the NJEDA may request an independent appraisal of the Fair Market Value at the expense of the Qualified Business. The process for the selection of the independent appraiser and appraisal are contained in Section 8.8 of the Qualified Business Side Agreement.

62. **What are the reporting requirements for QVFs?**

QVFs will be evaluated for continued certification upon receipt of required annual reporting documents. Completed annual reports must be submitted by QVFs each year following certification within 120 days following the conclusion of the QVF's tax privilege period.

Annual reports will require documentation, including, but not limited to, demonstration of continued compliance with eligibility requirements described in FAQ #26, best efforts made towards achieving DE&I policy goals, sourcing efforts to identify New Jersey-based businesses for deal origination by the QVF, and audited financial statements of each Qualified Venture Firm Active Fund and Evergreen SPV for reporting years in which a Qualified Investment has been funded. The annual report must also contain information about the Qualified Investments for reporting years in which a Qualified Investment has been funded as described in FAQ #58. Additional detail on reporting may be viewed in the program regulations viewable here (opens PDF): https://www.njeda.com/wpcontent/uploads/2022/06/R.2022-d.065-54-N.JR_.-1185a.pdf.

63. **What are the consequences for non-compliance for QVFs?**

Absent extenuating circumstances or prior written consent by the Authority, if a QVF fails to comply with its annual reporting requirements, the NJEDA shall withhold management fees, direct expenses, and carried interest incentive payment. The QVF shall have 120 days to comply and receive such fees, direct expenses, and payments; otherwise, the QVF forfeits all management fees and direct expenses for a year and the carried interest incentive payment. Firms that fail to report for two consecutive years will be decertified and no longer be eligible for new

Qualified Investments. The Authority may also remove the QVF from any Evergreen SPV or require termination of any Evergreen SPV managed by the QVF.

Other failures by a venture firm to comply with the NJIEF program requirements, or if the QVF is removed from the Evergreen SPV, the NJEDA may withhold or cease paying management fees and direct expenses, decertify the QVF, or replace the QVF or force a termination of the Evergreen SPV. If the Authority requires the termination of the Evergreen SPV, the QVF shall forfeit all carried interest requirements.

If the QVF made a material misrepresentation on its application for certification or QI, annual report, or any submissions to the Authority for the NJIEF program, the Authority shall cease paying management fees and direct expenses and shall decertify the QVF. The Authority may demand repayment of all management fees and direct expenses previously paid, remove the QVF from the Evergreen SPV, or require the QVF to terminate the Evergreen SPV.

Additional Information

64. **Where can I find additional information on the Evergreen Fund?**

The full details on the application process and eligibility are available on our website, along with a recording of a program information session webinar and the related slide deck. The application to become a Qualified Venture Firm can be accessed using the following link: https://forms.business.nj.gov/evergreen-fund/ . The NJIEF program is subject to the NJIEF statutes (N.J.S.A. 34:1B-288 to -302), rules (N.J.A.C. 19:31-25.1 et seq.), Authority-approved policies, and program agreements.

If you have additional questions after a thorough review of these documents, you may contact us at NJIEF@NJEDA.com and a member of our team will be happy to follow up with you.