

Robert Ibanez
NMTC Program Manager
Community Development Financial Institutions Fund
U.S. Department of the Treasury
500 Pennsylvania Avenue, NW
Washington, DC 20220

March 17, 2014

Dear Mr. Ibanez,

Opportunity Finance Network (OFN) appreciates the opportunity to comment on the New Markets Tax Credit Program (NMTC Program) Allocation Application. We helped to advocate for the passage of the law creating the NMTC in 2000, and in years since have been active advocates for its evolving implementation and for its reauthorization. The NMTC has proven to be an effective tool to channel private-sector financing into low-income and underserved communities—to connect new sources of capital with new markets.

Community Development Financial Institutions (CDFIs) are key players in communities targeted by the NMTC. The law authorizing the NMTC recognized their role by qualifying CDFIs as Community Development Entities (CDEs) eligible for the credit. In qualifying for CDFI Fund certification, CDFIs demonstrate a commitment to low-income markets and have institutional accountability to those markets. CDFIs are permanent institutions with a continuing interest in the communities where they work and invest in NMTC deals. Because CDFIs and their affiliate CDEs are ideal conduits for the NMTC, the allocation process and application should recognize this role, reflect their status as permanent institutions accountable to their markets, and ensure that they are competitive applicants for NMTC resources. In this letter, OFN offers suggestions for changes to the Allocation Application that would enhance the CDFI Fund's ability to recognize and reward the capacity of CDFIs to compete for allocations.

To further facilitate CDFI participation in the NMTC Program, the CDFI Fund should include CDFIs in the definition of as Qualified Active Low-Income Community Businesses (QALICBs).

Prior Performance of Applicant

Because of their mission to serve markets that others might overlook, CDFIs are likely to demonstrate their expertise in serving these markets differently



from mainstream financial institutions or other kinds of applicants. To make the NMTC Allocation Application (“the Application”) better reflect the prior performance and expertise of applicant CDEs, OFN requests a more comprehensive review of prior performance in Stage I of the Application. In particular, OFN suggests that the information considered in Section I.B: Prior Performance and Exhibit A: Track Record of Investment be expanded beyond the loans that a CDE has made or purchased from other CDEs to include the CDE’s experience in purchasing loans and current management capacity.

The Application has a table (A1) for Loans/Investments to Real Estate and Operating Businesses and a separate table (A3) for Loan Purchases from CDEs. The skill and experience required making, originating, underwriting, and servicing a real estate or operating business loan is the same as what is required to purchase a loan. For that reason, in considering a CDE’s track record in loan/investments to real estate and operating businesses, the Fund should include purchases of loans to real estate or operating businesses as part of that track record. OFN recommends adding a place in Exhibit A3 (Loan Purchases from CDEs) to indicate what percentage or dollar amount of loan purchases are loans to real estate or operating businesses.

Similarly, the experience of the current management of the Applicant CDE should also be considered along with the track record of the CDE’s loans/investments to real estate and operating businesses. As currently written, the Fund does not consider management capacity until Stage II of the application review (Part III), which could prematurely eliminate capable and deserving applicants from competition.

Including loan purchases and management capacity in the Prior Performance section of the NMTC Allocation Application will provide a more complete picture of the capacity of an Applicant to effectively deploy a NMTC allocation. For example, while OFN does not have activity listed in Exhibit A1, OFN has substantial experience in loans to real estate and operating businesses through both its loan purchase activity as well as through the individuals on its financing team from prior work experience.

Qualified Active Low-Income Community Business (QALICB)

OFN would like to see the definition of QALICB on page 66 of the draft application revised to include CDFIs. Such a definition of QALICB would be consistent with the September 28, 2012 revisions to Internal Revenue Service (IRS) rule on New Market Tax Credit Non-Real Estate Investments (26 CFR part 1; 77 FR 5944). In that rulemaking the IRS said that capital that is returned in certain NMTC deals could be reinvested in an unrelated



certified CDFI under certain circumstances. As the IRS noted in the rule, certified CDFIs are appropriately treated as QALICBs because the CDFI certification process ensures that CDFIs serve low-income communities. OFN recommends that, because of CDFIs' focus on low-income communities, the ruling should be applied equally to both redeployment of QLICs and the initial deployment of QLICs.

Timing of CDFI Fund Requests

OFN would urge the CDFI Fund to consider all outstanding data collection requests and application opportunities to CDFIs when the Fund is considering the timing of the next NMTC Allocation Application. Overlapping deadlines for reporting, applications and comment letters from the various programs at the Fund can tax many of our members who have the desire to participate in a variety of the Fund's programs. The competitive nature of the Fund's programs rightly requires CDFIs to devote significant resources to developing strong applications. Simultaneous application periods for multiple programs impede CDFIs' ability to give appropriate attention to each one. To the extent the Fund can coordinate these deadlines to minimize the burden on CDFI staff time, CDFIs will be able to do the important work of providing financing in the communities we serve and leverage the CDFI Fund programs to do so.

Conclusion

The New Markets Tax Credit has been a valuable and innovative tool to channel investment into underserved communities. Facilitating the participation of CDFIs and other mission-driven organizations in the allocation and use of NMTC will enhance its reach and ensure it finances the projects most in need of its limited subsidy.

Thank you for the opportunity to comment.

Sincerely,

Mark Pinsky
President and CEO