



June 26, 2017

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Community Development Financial Institutions Fund
U.S. Department of the Treasury
1801 L St NW
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RE: New Markets Tax Credit Coalition Comments on the NMTC Program Annual Report including CIIS (OMB Number: 1559-0027).

Greg,

I am writing on behalf of the New Markets Tax Credit Coalition ("The Coalition") in response to the Community Development Financial Institutions (CDFI) Fund's solicitation for comments on the Community Investment Impact System (CIIS) used to collect data from Community Development Entities (CDEs). The Coalition is a national membership organization made up of community development organizations, investors, public officials and experts in community development and community development finance. The Coalition has a long history with the New Markets Tax Credit (NMTC) that dates back to the original Clinton administration proposal in 1999.

In addition to addressing some of the questions presented in the Federal Register, we are offering recommendations that we believe will strengthen the CIIS reporting system and the quality of the data collected. While most of our comments concern the Transaction Level Report (TLR), we urge the Fund to ensure that the information requested, the definitions referenced in the Institution Level Report (ILR), and all other CDFI Fund materials are consistent.

A significant focus of our comments is the challenge of attributing jobs to NMTC financing. We understand that the CDFI Fund has concerns about attribution and we recommend that consideration is given to the percentage the NMTC subsidy makes up of the capital in a transaction base. Fundamentally, it is reasonable to associate all jobs with the capital provided from the NMTCs, whether existing or created, if the amount of the capital fills a gap of 10 percent or greater - indicating that the start-up or expansion would not have proceeded – as this spread in the capital gap is not de-minimis.

We urge the CDFI Fund to avoid restrictive guidance on the reporting of jobs or guidance that requires strict proration of impacts, and instead allow CDEs to explain and justify their methodology. CDEs provide their methodology in the application, and successful applicants should be allowed to continue to use the methods they described in their applications in their reporting. With this information, the CDFI Fund can adjust the aggregate data prepared for the public in the annual reports without creating an undue burden for CDEs or forcing them to change shift methods midstream.

The Coalition encourages the Fund to consider the following recommendations to enhance the quality, utility, and clarity of the information to be collected:

Jobs Created by Business Working Capital

The CIIS guidance states:

A loan or investment that will be used to cover any ongoing operating expenses of a business such as payroll, rent or utility expenses.

- o To calculate jobs supported or maintained by a working capital loan, the reporting organization should prorate the “jobs maintained” based on how much of the shortfall between current expenses and revenues for the business is covered by the loan or line of credit. For example, the business has 12 FTEs employed throughout the year, and the working capital loan covers the equivalent of one month of expenses, so the net job effect is 1 FTE.

This CDFI Fund’s “one-size-fits-all” approach may understate the importance of a loan on job creation and preservation in smaller businesses where working capital loans allow firms cover shortfalls that could result in reduced profitability or viability of a company and loss of jobs. If NMTC financing fills an operating capital shortfall of ten percent or more, this suggests a significant impact on the viability of the business.

Unlike many other federal programs, the NMTC is targeted to businesses and projects that would not be viable without the NMTC subsidy. Each project varies significantly. Thus, above all, the Coalition recommends the CDFI Fund allow flexibility in jobs reporting but ask CDEs to explain their methodology.

Jobs related to a business fixed asset:

The CIIS 14.0 guidance prohibited CDEs from reporting jobs created or retained through the financing of a “Business Fixed Asset.” The new guidance limits the CDFI Fund’s ability to measure the impact of the NMTC in supporting financially distressed businesses.

Business Fixed Asset: A loan or investment that will be used to pay for any tangible property used in the operation of a business, but not expected to be consumed or converted into cash in the ordinary course of events. Commonly financed fixed assets include machinery and equipment, furniture and fixtures, and leasehold improvements.

- o No jobs should be reported for the purchase of fixed assets or equipment

The debate over the measurement of created and retained jobs came to a head in the aftermath of the American Recovery and Reinvestment Act. While rigorous standards exist for the quantifying job creation, job retention mixes in the qualitative, because CDEs must conceptualize what might have been in comparison to what came to pass. In some cases, this is relatively simple. If equipment failure destroys the viability of a business, the financing of new equipment helps the business retain its FTE positions.

However, it often makes little sense to divide out portions of an NMTC project (equipment, real estate, working capital) and assign job creation to each separate function of NMTC financing.

For example, a CDE might finance both equipment and a new shell space for the equipment. Without this space, the equipment expenditure, however necessary, has no function. Without the equipment, the shell space serves no purpose. The equipment cannot be used efficiently if it cannot be adapted to the utilities and infrastructure it needs to run. Hence, the division of equipment as a share of the project to determine the number of staff members supported by that component of funding appears to be rather arbitrary – as no part of the project works without the other.

As long as the purchase of a business fixed asset meets the following criteria, the Coalition urges the CDFI Fund to allow the counting of retained jobs:

- 1) The NMTC portion of the financing filled a shortfall of 10 percent or greater.
- 2) Without the purchase of the asset, a line of business would not remain internationally competitive;
- 3) The purchase of the business fixed asset would not have been possible without the NMTC subsidy; and
- 4) There is no evidence that the financing of a business fixed asset will result in the elimination of positions (for example, through automation).

While the process is imperfect, the CDFI Fund should not dismiss data collection efforts that help measure the NMTC's role in triaging distressed businesses or helping them remain globally competitive.

The question is whether and to what extent does the CDFI Fund wish to explain all impacts of NMTC, including helping struggling businesses retain their current jobs. NMTC is an important tool for promoting economic growth in distressed areas; this should include jobs that are retained through NMTC financing as well as jobs that are created. We urge the CDFI Fund to once again provide CDEs with the flexibility to report these jobs.

Pro-rating jobs reported

The CIIS 14.0 guidance indicates the number of jobs created through a transaction should be pro-rated according to a CDE's QLICs as a percentage of Total Project Cost (TPC). While we acknowledge the logic of doing this, this additional reporting requirement is onerous and prone to mistake and misinterpretation. Additionally, there is no ability for the Fund or other users of the data to ascertain whether jobs in a given transaction have been pro-rated or not. Finally, as an example, in a transaction with only one CDE financing 90 percent of TPC, it seems clear that the project—and the jobs it creates—would not occur at all without that financing. In this case, the QLICs provided by the CDE almost certainly for 100 percent of the jobs created, and it does not make sense to pro-rate. We recommend removing the pro-rating guidance. The current reporting requirements provide all the information necessary for users of the data to be responsible for pro-rating outcomes if they wish.

Business jobs reporting

The CIIS 14.0 guidance indicates that “Jobs at Time of Loan/Investment”, “Projected Permanent Jobs to Be Created at Businesses Financed”, and “Actual Permanent Jobs Created at Businesses Financed” are conditionally required if Purpose = BUSINESS or MICRO. As recently as 2013, the CIIS guidance for these

fields said, “Reject if: Purpose = REAL ESTATE”. We ask that the CDFI Fund clarify whether these fields are now applicable to transactions where Purpose = REAL ESTATE.

Our recommendation is that the Fund clarify that business jobs should be reported for real estate transactions. Particularly in the case of new community facility transactions, an organization both creates new real estate and new business jobs.

Multi-CDE jobs reporting

When CDEs choose the Collaborative Approach, they are required to significantly undercount the number of jobs reported for a project. The Collaborative Approach requires CDEs to pro-rate jobs based on the share of NMTC allocation as a percentage of total project costs. With the Lead CDE Approach, prorating of jobs based on the proportion of NMTC allocation is not required. In practice, this means that CDEs choosing the Collaborative Approach report fewer jobs than CDEs choosing the Lead CDE Approach. The guidance states the following:

It is recognized that prorating outcomes based on the share of total QEIs does not account for the non-New Markets financing portion of the project; however the collection of the detailed breakout of total project cost components will allow the CDFI Fund to make this calculation in analyzing project leverage and the attribution of outcomes.

Further explanation is needed on how the CDFI Fund quantifies these jobs. There is not an obvious reason for calculating jobs in two different ways when the only difference is the configuration chosen by the CDEs.

We also recommend adding a "Multi-CDE Required" highlighted tag to the TLR instructions for each applicable data point to mirror the approach of "Annual Update Required" data points.

Clarify Project Descriptions:

NMTC applicants provide rich narratives describing potential projects, but there is no opportunity in CIIS where they to input these narrative details. This is unfortunate, because NMTC projects benefit from a qualitative description, and these details are lacking in the CDFI Fund’s otherwise very useful annual reports. We recommend the CDFI Fund solicit NMTC case studies to highlight in the annual report. If this process proves arduous, we recommend – at minimum – highlighting the projects visited by Treasury staff during the fiscal year.

The “Business Description – Primary” (Projects – Column V) field includes 11 broad choices: FOOD, OFFICE, INDUSTRIAL, HOUSING, HEALTH, COMMUNITY, ARTS, RETAIL, HOTEL, MIXED, and OTHER. These choices do not fully illuminate the nature of an NMTC project. In addition to being vague, this question is redundant, as the next question (Projects – Column X) asks for the QALICB’s NAICS code. We recommend expanding these categories.

The NAICS code question can also be improved. Because many QALICBs are developers of real estate, this data-point often fails to provide clues to tenant(s) or end user(s) benefiting from NMTC financing. We recommend adding an instruction to this data point, “If the QALICB primarily develops real estate for rental and leasing, NAICS code 53, or the project is a mixed-use project, please provide the NAICS code for the three largest tenants or end beneficiaries.

An alternative to providing three NAICS codes could be to make an explicit statement of what to do when the QALICB is an SPE and/or a landlord of a multi-tenant project so that details on the end beneficiary are not lost.

Capacity of Community Facilities:

In order to obtain more accurate reporting for community facility capacity data, we recommend introducing a larger selection of categories. Some recommendations for additional categories include: food bank/community kitchen, homeless shelter, youth program, job development/employment services and veteran services. Another suggestion would be to reintroduce the OTHER category to allow for CDEs to display their community outcome capacity numbers that are not included in the current selection. These categories would give the CDFI Fund a more concrete picture of the amount of funding that goes towards community facilities and an accurate reflection of people that benefit from these services.

Interest-Only Periods and Amortization

CIIS 14.0 does not allow a transaction to be reported as having both a “Longer Than Standard Period of Interest-Only Payments” and as being fully amortizing. However, it is not uncommon for a QLICI to have an interest-only period, after which it is fully-amortized (i.e., paid off on a fixed schedule) over the remaining term. We recommend that the CDFI Fund update CIIS to allow reporting both of these features.

Substantially All Methodology Table:

The Substantially All Methodology Table in the ILR includes every QEI registered by an Allocatee, even those that have reached the end of compliance in a previous reporting period. To complete the table, each QEI must be selected individually, a sub-all method must be chosen, and the selection saved. Then the process is repeated until a selection has been made and saved for each QEI in the table. It's quite time-consuming to complete the table in such a rudimentary way when there are 50 or more QEIs in the table. We suggest, at a minimum, that an Allocatee's QEIs that have reached the end of compliance during a previous reporting period be removed from the Substantially All Methodology Table in the Allocatee's ILR for the current reporting period. Additionally, it would be a big improvement if the technology behind the table could be changed to allow a user to tab through the table to select the methodology for each QEI, then save the table as a whole.

Technology Upgrades and Additional Potential Uses of Data:

We look forward to the CDFI Fund's full integration of CIIS data into the Awards Management Information System (AMIS). We hope this will streamline reporting of data and reduce the reporting burden.

The CIIS reporting system helps the CDFI Fund measure performance, track compliance with awardee commitments, and direct new funding decisions toward the greatest impact. The rich dataset helps policymakers and the American people understand the impact and effectiveness of the NMTC program. But the Fund's data could do much more, as the Fund acknowledged in their five-year strategic plan, which called for the CDFI Fund to “Strengthen the CDFI Fund's position as a leader in industry research

and collaboration” and “expand and the amount and type of data that the CDFI Fund makes available to the public for research purposes.”

The NMTC Coalition applauds the CDFI Fund’s efforts to open data to practitioners and researchers so that it can be used to foster continuous improvement in our industry, guide our investments, and maximize our impact.

Potential QALICBs often utilize the QEI issuance report and the advanced search feature on the CDFI Fund’s website to determine which CDEs might serve their needs. However, the large QEI issuance PDF is unwieldy and difficult to parse. We suggest releasing the QEI issuance data included in the PDF release in the form of an excel spreadsheet.

QEI Closeout Report

Many CDEs receive error messages while trying to complete the new QEI Closeout Report and Distributions Report. These errors stall CDEs from reporting data to the CDFI Fund in a timely manner. We recommend these reports be reformatted to an excel spreadsheet which is then uploaded to the system, similar to how the Transaction Level Report (TLR) is collected. The errors become a very time-consuming, labor intensive task, and we feel being able to complete these reports in Excel, outside of the CIIS System, would alleviate a great portion of the burden of CIIS reporting.

The Adoption of Consistent Definitions Across NMTC Program Areas

The NMTC Application, CIIS reporting, and allocation agreement, and compliance FAQ include different definitions for terms. One example is that the application asks for direct jobs, while CIIS allows for the reporting of both direct and indirect jobs. We suggest the CDFI Fund’s program staff develop a unified glossary of terms across all areas of the program.

Thank you for your consideration of these comments.

Sincerely



Robert Davenport

President, NMTC Coalition