NMTC WORKING GROUP
hosted by Novogradac & Company LLP

June 26, 2017

Mr. Greg Bischak
Program Manager for Financial Strategies and Research
Community Development Financial Institutes Fund
U.S Department of the Treasury
1500 Pennsylvania Ave. NW.
Washington, DC 20220
cdfihelp@cdfi.treas.gov

Re: Comments on Annual CIIS Reporting

Dear Mr. Bischak:

On behalf of the members of the New Markets Tax Credit ("NMTC") Working Group, we submit the following comments and recommendations on the annual reporting in the Community Investment Impact System ("CIIS").

The members of the NMTC Working Group are participants in the NMTC industry who work together to help resolve technical NMTC program issues and provide recommendations to make the NMTC program even more efficient in delivering benefits to qualified businesses located in low-income communities around the country. Our group includes over 65 organizations that are allocatees, nonprofit and for-profit community development entities ("CDEs"), consultants, investors, accountants and lawyers.

For your convenience, we have provided a list of our recommendations and comments below:

Jobs and Business Loans

We recommend the CDFI Fund revise its guidance for calculating jobs projected/actual created or maintained when QLICI proceeds are used to purchase fixed assets or machinery. The new guidance on Calculating Jobs Projected/Actual Created or Maintained (pg. 37 of the Allocatee TLR Data Point Guidance – CIIS 14.0) as it relates to Jobs and Business Loans states (emphasis added):

> Jobs and Business Loans. There are three broad categories of business loans:
>
> > *Business Working Capital:* A loan or investment that will be used to cover any ongoing operating expenses of a business such as payroll, rent or utility expenses.

- *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.

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.

- <u>**No jobs should be reported for the purchase of fixed assets or equipment.**</u>

Business Expansion or Startup: A loan to support the expansion or startup of a business or develop a new product line or service.

- *To calculate jobs created or added,* the reporting organization should estimate the total FTEs to be created or added and then prorate the job effect based on the share of the loan as part of the total business expansion financing package (i.e. as reported under the total project cost).

We are concerned about the language in the guidance above regarding loans to operating businesses that currently prohibits you from being able to count jobs that occurred as a result of financing that included the purchase of equipment and other tangible property. We believe that not being able to count jobs for a type of financing that is clearly seen as innovative and encouraged by the CDFI Fund in its application as an innovative use will actually discourage this type of investment. Question 18 - Innovative Uses of an NMTC Allocation lists the following uses that will be considered innovative (emphasis added):

- Investing in *Unrelated CDEs* that do not have *NMTC Allocations*;
- Investing in states identified by the CDFI Fund as having received fewer dollars of *QLICIs* historically;
- Providing *QLICIs* where the total *QLICIs* received by the *QALICB* are $2 million or less;
- Making *QLICIs* with an original term less than or equal to 60 months; and
- <u>**Providing *QLICIs* for non-Real Estate Activities, such as working capital, inventory or equipment purchase.**</u>

- Investing in *Federal Indian Reservations*, *Off-Reservation Trust Lands*, *Hawaiian Home Lands*, and *Alaska Native Village Statistical Areas*.

Many recent allocatees made commitments in their applications that ended up in their allocation agreements to ensure a certain percentage of their allocation is made in such innovative ways only to realize that they may not be able to count the jobs created as a result of their loans and investments, based upon the current guidance above. Our members have indicated that they have very good examples of investments that included equipment financing that allowed an operating business to either maintain or create new jobs. We would recommend that the Transaction Level Report ("TLR") guidance be amended to allow jobs to be calculated on loans and/or investments that are used to pay for any tangible property used in the operation of a business. Without such clarification, we are concerned that CDEs will choose to not make future loans or investments that include the purchase of tangible property if they are unable to show the job creation benefit. We further recommend that the CDFI Fund provide additional clarification about when a CDE should use the Business Expansion or Startup category as the current guidance appears to be very broad and may cause CDEs to report their outcomes differently.

Calculating Jobs

In the Allocatee TLR Data Point Guidance - CIIS 14.0 document dated August 2016, it says on page 37, "The reporting organization should calculate or prorate the unique contribution of jobs created or maintained by the loans that they make <u>based on the share that the loan constitutes of the given project or business operation</u>," clearly instructing that jobs should be prorated based upon the amount of QLICI financing. However, in the Multi-CDE reporting guidelines issued March 25, 2013, CDEs taking the Lead CDE approach are specifically instructed NOT to prorate jobs: "Under the Lead CDE approach all participating organizations should report the same impact data based upon the <u>total impact of the project</u>, for each relevant outcome measure in TLR fields PRJ:Z – RJ:BC, including projected and actual job measures, square footage, annual gross revenue generated by QALICB, etc. (The source(s) and method(s) of computing jobs should be agreed upon)."

We believe these guidelines are in direct conflict with each other and may complicate the reporting for CDEs that have taken the Lead CDE approach. We believe the best and most accurate approach is to continue reporting the total job impact, regardless of whether it's a single CDE transaction or multi-CDE one. By aligning the two, we believe the CDFI Fund will be able to more accurately reflect the job information they are attempting to collect.

Substantially All Methodology Table

In an effort to make the reporting process more efficient, we request that the CDFI Fund consider modifications to the Substantially All Methodology Table in the Institution Level Report ("ILR"). The table currently includes every QEI registered by an Allocatee, even those which have reached the end of compliance in a previous reporting period, and requires that the user select each QEI individually, indicate the substantially-all method for that QEI, and save the changes. CDEs must repeat this process for each QEI, which takes considerable time for Allocatees with large portfolios. We suggest the table be updated to allow a user to make changes for multiple QEIs at a time and save the table as a whole. We also suggest that QEIs which have reached the end of compliance in a previous reporting period be removed from the table or carryforward the information from the previous year.

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. This 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.

Technology Upgrades

Our members have faced many technological errors while trying to complete the new QEI Closeout Report and Distributions Report. These errors have stalled them 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 TLR is collected. The technological errors become a very time-consuming, labor intense task and we feel being able to complete these reports off of the CIIS System would alleviate a great portion of the burden of reporting the CIIS report.

General

With respect to the time spent completing CIIS reporting, we appreciate that the CDFI Fund tries to limit updates to only once per year. However, since CDEs report information in CIIS throughout the year based on various fiscal year end dates, when the CDFI Fund changes instructions, adds data points, or otherwise alters the reporting process, CDEs need additional time to adopt new strategies for data collection and analysis. For example, if a CDE's CIIS reporting deadline is in November and the CDFI Fund issues changes to CIIS in October, the CDE is forced to incorporate the changes in a short amount of time. We request that the CDFI Fund consider a phased approach so that changes are effective for the next reporting year rather than the current year. This is also important if CDEs are using customized systems to track and report CIIS data. Making changes to these systems requires both time and money, and having additional notice would help CDEs manage these changes properly. We believe having more time to incorporate the changes would also ensure CDEs are providing the most accurate and useful data to the CDFI Fund.

We would further recommend that the CDFI Fund take the approach of highlighting any changes made when new CIIS guidance or instructions are released. This recommendation would be similar to the approach the CDFI Fund has taken when it has released new compliance documents for the NMTC program. We believe that highlighting the changes would allow parties to be more aware of any changes made when reviewing the new documentation. We also believe this would ensure there would be greater consistency in the reporting the CDFI Fund receives.

Conclusion

We appreciate the time and effort the CDFI Fund spends on improving the New Markets Tax Credit Program, providing additional guidance and clarification, and seeking guidance from NMTC participants. We hope that you find these comments and suggestions helpful. We believe these comments will increase efficiency and result in more accurate information reported to the CDFI Fund. Thank you in advance for your time and consideration.

Please do not hesitate to contact us if you have any questions regarding our comments or if we can be of further assistance.

Yours very truly,
Novogradac and Company LLP

by

Brad Elphick