



March 10, 2017

Robert Ibanez  
NMTC Program Manager  
Community Development Financial Institutions Fund  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220

Mr. Ibanez:

I am writing on behalf of the New Markets Tax Credit Coalition ("the Coalition") in response to the CDFI Fund's January 10, 2017 request for comments on the CY 2018 New Markets Tax Credit (NMTC) application.

Formed in 1998, the Coalition is a national membership organization that advocates on behalf of the NMTC Program. The Coalition's mission is to ensure that its members, including Community Development Entities (CDEs), investors, and other community development professionals, can effectively use the NMTC to encourage investment and advance economic revitalization efforts in low-income urban and rural communities across the country.

The letter is organized by application section. Thank you for the opportunity to comment. We look forward to working with you to maintain the NMTC as one of the most efficient and effective federal economic development initiatives.

## Part I. Business Strategy

### Question 17: Projected NMTC investments/Table A5

- A. **The 2018 application now offers limited space for CDEs to explain their mission, investment strategy, and the "why and how" around their deal selection and approach.** Question 17 has served as the one narrative in the key chapters of the application (1&2) that give the CDE an opportunity to elaborate on these factors. By reducing the character count by 8,000 in Question 17, the CDFI Fund would eliminate CDEs' ability to describe the context, need, linked investment strategies, or other key factors around the pipeline deals.

The Coalition appreciates the CDFI Fund's effort to consolidate and standardize the project pipeline, but a narrative is still important. We recommend increasing the character limit in Table A5, question 1 ("Business name and description") from 500 to 2,000 characters to allow in-depth descriptions of projects. The name of the field might be changed to "Business name and description of project" and CDEs could use the space to describe both the "what"

as well as the “why and how” the project was chosen (the application instructions would also need to be modified for this question).

One of the many strengths of the NMTC program is the diversity of business plans and approaches to community development. From large, campus-style, multi-phase projects to small business loan pools, CDEs finance a wide variety of projects that may not easily fit into a one-size-fits-all spreadsheet. We urge the CDFI Fund to ensure that CDEs continue to have ample space to describe the “how and why”.

**B. Table A5 asks whether projects are “Fully Underwritten” or “Partially Underwritten.” We suggest removing this question.**

Table A5 asks CDEs to state whether a particular pipeline project is “Fully Underwritten.” In the past three application rounds, the time elapsed between application submittal and award announcements has ranged from ten to thirteen months. It is difficult – if not impossible – for CDEs to identify a high-quality pipeline transaction, fully underwrite it, document it in their NMTC application, wait ten months for an award outcome, and then spend a minimum of three months to close on QLICI financing for the project. Few – if any – community development projects that need NMTC financing can be sufficiently ready for a CDE to declare it “Fully Underwritten” 14+ months ahead of the time when the NMTC financing is actually needed.

The problem described above would also be particularly challenging for CDEs who undertake loan pools and serve smaller borrowers.

## Question 18 – Innovative Uses of an NMTC Allocation

**A. Allow QLICIs to qualify as supporting non-Real Estate Activities in situations where some portion of the QLICI is used for Real Estate Activities.**

A recent change to the definition of non-Real Estate (NRE) Innovative Activities in the Combined CY2015 – CY2016 Allocation Agreement, along with the associated supplemental guidance on the same topic, limits the scope of what qualifies as NRE financing to situations where no portion of any financial note provided by an Allocatee to a QALICB is used for Real Estate Activities. This limitation is out of step with standard lending practice wherein it is quite common for a single lender to make separate loans to a borrower for both real estate and non-real estate purposes.

We urge the CDFI Fund reverse this definition of non-Real Estate Activities and allow any portion of any QLICI to any QALICB that is used for activities not included in the definition of Real Estate Activities to be counted toward an Allocatee’s NRE financing requirement.

**B. Retain “Investing in Federal Indian Reservations, Off-Reservation Trust Lands, Hawaiian Home Lands, and Alaska Native Village Statistical Areas” as an innovative use.**

We applaud the CDFI Fund's inclusion of this "innovative use" in the 2015 application and the draft 2018 application, and we encourage the Fund to maintain the language in future applications. However, we suggest modifying the language to include the financing of businesses owned by Native Americans.

### Question 21: Non-Metropolitan Investments

**Question 21(e), where applicants give a narrative description of their non-metropolitan project pipeline, could be removed or shortened.**

It is largely duplicative with Question 17 (Proposed NMTC Investments) in Question 17's current form. If Question 17 is shortened, Question 21(e) will give non-metro-oriented applicants substantially more space to provide narrative connective tissue describing their pipeline projects than metro-oriented applicants, creating an imbalance in the application process.

## Part II. Community Outcomes

### Question 25: Community Outcomes

**Question 25(a) and (c): Recent Q&A Guidance Promulgated in 2015 Round Unintentionally Discourages Mixed-use transactions involving housing:**

The CDFI Fund recently provided (verbal) guidance indicating that checking more than one box in the Community Outcomes list, Question 25, might disadvantage an applicant if one or more of those outcomes are not as strong as the others. We suggested that the CDFI Fund clarify this with a TIP in the application.

Applicants without a track record financing housing are discouraged from checking the housing box in Question 25, even if they intend to finance mixed-use projects because their track record will appear to weaker than applicants with a Low Income Housing Tax Credit track record. This has the unintended effect of discouraging mixed-use projects.

**Narrow the scope of Question 25(a) or lengthen the character limit– Community Goods or Services to Low-Income Communities**

Expand the narrative for "Community Goods or Services to Low-Income Communities" from 5,000 characters to 10,000 characters or split this section into multiple impact narratives to account for the diversity and complexity of the types of impacts this category contains. This recommendation would address disparities between the space applicants have to discuss various types of impacts and allow additional room in Community Goods or Services to accommodate the diverse array of impacts, their nuanced nature, and recent directives about measuring the effectiveness of providers.

The Community Goods or Services category encompasses many types of community outcomes that each have their own unique characteristics. For example, a single applicant may have in its pipeline a community health center, a child care facility, a school, and a job training facility. Such an applicant would need to discuss the varied impacts from each of these projects along with its track record of similar projects in only 5,000 characters.

In the 2015 application round, the CDFI Fund added the requirement that applicants responding to the Community Goods or Services category must address how they will evaluate the effectiveness of the community service providers—a unique and additional overlaid requirement that does not apply to the other types of community impacts in Question 25. A 5000-character narrative is simply not long enough to allow an applicant CDE that invests deeply and meaningfully in Community Goods and Services to provide a full description of their impacts in this category. The Coalition recommends either scrapping the requirement to evaluate community service providers or substantially increasing the character length.

### **Question 25 and Metrics**

The TIP in Question 25 explains an applicant will score well to the extent that “its projected community outcomes are supported by clear and sound methods and metrics for each outcome selected.”

Metrics are helpful only in so much as they inform the strategy of a CDE’s business plan and the impact of the investments in its portfolio. Metrics are less useful in measuring community goods and services.

Consider the following examples. If an applicant commits to funding community facilities, they may finance:

- Educational facility (ranging from charter schools to daycare to online education for rural institution needs);
- Healthcare facility (ranging from emergency rooms to FQHCs to behavioral health care clinics); or
- Blended facilities with multiple components (such as an abuse refuge with shelter, education, healthcare and legal aid).

Developing metrics and tying them to third-party benchmarks to inform decision making is unrealistic for these categories of projects. For instance, the jobs to services ratio for these individual facilities will be different. Finding a commonality among community facilities on which to base a metric is not that easy and perhaps not even useful.

The CDFI Fund should consider removing metrics from the Community Outcomes section of the allocation application and perhaps adding a question, “When and how does the applicant use metrics in informing its decision making?”

### **Add a new section, “Strengthen Physical Infrastructure”**

We request adding a check-box to the Community Outcomes section allowing applicants plans to use an NMTC allocation to finance physical infrastructure improvements in low-income communities. The Administration has made infrastructure improvement a priority, and many CDEs have a track record financing infrastructure projects that yield broad benefits for NMTC eligible areas, including transportation, water, energy, rural broadband, rejuvenated ports, schools, and other physical assets. The Fund should continue to align the NMTC application with Administration priorities, as it has with past administrations. We recommend adopting the infrastructure definition from the Bureau of Transportation Statistics:

“1) In transit systems, all the fixed components of the transit system, such as rights-of-way, tracks, signal equipment, stations, park-and-ride lots, bus stops, maintenance facilities. 2) In transportation planning, all the relevant elements of the environment in which a transportation system operates. (TRB1) 3) A term connoting the physical underpinnings of society at large, including, but not limited to, roads, bridges, transit, waste systems, public housing, sidewalks, utility installations, parks, public buildings, and communications networks.”

## Part III. Management Capacity

### Comments on Question 33(e) and Table D2

Clarify the language for the new question on fees, 33(e), Table D2, and in the Instructions for Table D2. Specifically:

- We assume that the CDFI Fund’s intent would be to have disclosure of circumstances where, in connection with an NMTC transaction, the CDE requires donations to affiliated or unaffiliated 3rd parties, whether the donations are made by the QALICB, QALICB affiliate, CDE, or CDE affiliate. If so, we suggest the instructions more clearly include this scenario.
- We also assume that if the Applicant or an affiliate uses QEI proceeds or funds received from the Investment Fund to make non-QLICI loans or investments, that this should also be disclosed?
- Some CDEs charge additional fees to QALICBs if a proposed transaction fails to close by a stated deadline, and these fees can be significant (50 basis points is not uncommon). We would suggest that these types of fees be required to be disclosed.
- In the instructions for Table D2, it states, “The Applicant must not include routine transaction costs such as legal and accounting expenses that are not part of the Applicant’s fee structure.” It is unclear what the CDFI Fund considers “routine transaction costs.” We request clarification.

## PART V: INFORMATION REGARDING PREVIOUS AWARDS

### Regarding Deployed Allocation

The CDFI Fund should consider adding a question to this section where the applicant can discuss projects it anticipates closing with existing allocation after the issuance of the NOAA but before the next award announcement.

As an example, assume a CDE closes \$10 million of its \$35 million 2015-6 allocation before the July threshold date, but has committed another \$20 million that it does not expect to deploy until September of 2017. When the Fund checks in July, the system will show that the CDE has \$25 million in un-deployed allocation from the previous round, but there is no way, short of a prefunded QEI, that the Fund will know that that \$30 million of the \$35 million is fully committed or deployed.

The justification for this change would be that the Fund has repeatedly stated that they do not want the cycle of applications and awards to affect a deal's ability to get commitments. The ability of an applicant to explain its commitments might prevent some CDEs from rushing into less than optimal deals at the expense of highly impactful deals.

## General Comments

### **Encouraging Additional Transparency in Scoring and Reviewer Instructions:**

The Coalition encourages the Fund to make public the instructions and guidance provided to the outside readers chosen to review applications. The directions provided by the NOAA, the Application TIPs, and the Q&A documents guide CDEs through the application process, but as applicants work to address the Fund's priorities, respond to questions clearly, and articulate their NMTC business strategy, it would be useful to understand how readers are instructed. We believe providing a more transparent process will benefit both the readers and the applicants and, ultimately, will strengthen this competitive process.

The Coalition also urges the CDFI Fund to provide reviewer comments to unsuccessful applicants.

### **Consistency with terms and definitions**

To the greatest extent possible, the CDFI Fund should ensure that changes to terms or definitions in the application are consistent across NMTC program areas, including in CIIS, compliance FAQs, Application Q&As, and allocation agreement templates. For example, recent CIIS changes to the reporting of jobs generated through business lending do not conform with the language in the application.

Thank you for the opportunity to comment.

Gratefully,



Robert W. Davenport  
President, New Markets Tax Credit Coalition