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Re: Community Development Financial Institutions Fund's Bond Guarantee Program

To Whom It May Concern:

The Credit Union National Association is pleased to comment on the Community Development Financial Institutions Fund's Bond Guarantee Program. CUNA is the largest credit union advocacy organization in this country, representing approximately 90% of the nation's 7,300 state and federal credit unions that serve about 92 million members.

CDFI Fund Bond Guarantee Program

The Small Business Jobs Act of 2010, Pub. L. No. 111-240, enacted the CDFI Bond Guarantee Program. The program will involve a Treasury Department guarantee on the full amount of notes or bonds of up to 30 years duration issued by CDFIs to "support lending and investment by providing a source of long-term, patient capital to CDFIs." Credit unions that are CDFIs, community development credit unions (CDCUs), are typically designated low-income credit unions (LICUs) under National Credit Union Administration (NCUA) rules. We believe CDCUs should be eligible for the CDFI guarantee on notes they issue.

We also think that CDCU subordinated notes of 5 years duration or longer should be eligible to be considered LICU supplemental capital under NCUA net worth regulations. In that connection, supplemental capital should be an eligible use of bond proceeds as well as the proposed use of helping CDCUs match assets and liabilities.

CDCU supplemental capital is long-term, equity-like subordinated debt available only to credit unions designated as LICUs by NCUA. It is counted as net worth, subject to terms and conditions set forth by NCUA rules. See 12 C.F.R. § 701.34(b), (c). Credit unions must have ratios of net worth to total assets of seven-percent (7%) or higher in order to be classified as "well capitalized."

Only a minority of CDCUs originate and hold long-term mortgage loans in portfolio; for these institutions, CDFI Bond proceeds would potentially be helpful in matching their assets and liabilities. Supplemental capital, on the other hand, would assist significantly more CDCUs in their mission, which is wholly consistent with the mission of the CDFI Fund. It would enable them to leverage their net worth to add deposits and generate loans for a range of credit needs in low-income communities, including but not limited to microenterprise, providing working capital for small businesses, education, and other essential needs of their members.

In urging explicit recognition of supplemental capital as a use for CDFI Bond proceeds, our recommendation parallels those of the National Federation of Community Development Credit Unions and the Community Development Bankers Association, which have called for structuring investments so that they count as regulatory capital under the Prompt Corrective Action Regulations of NCUA and the federal banking regulators.

Definitions of "Low-Income," "Underserved." and "Rural Area":

CUNA also recommends the agency define "low-income" in a manner consistent with NCUA's "low-income" definition under 12 C.F.R. § 701.34(a) to include families whose income is 80% or less than the median family income for the metropolitan area where they live or national metropolitan area, whichever is greater, or those members who earn 80% or less than the total median earnings for individuals for the metropolitan area where they live or national metropolitan area, whichever is greater. In addition, CUNA recommends the agency define "underserved" to include areas considered to be "underserved" by the NCUA Board pursuant to 12 U.S.C. § 1759(c)(2)[1] as well as areas served by institutions that the U.S. Department of the Treasury's Community Development Financial Institutions Fund (CDFI Fund) has determined qualify for the Community Development Financial Institutions Program and similar CDFI Fund programs serving underserved communities. Similarly, the agency should define "rural" to include areas meeting the NCUA Board's definition of "rural district" as defined by 12 U.S.C. § 1759 and relevant agency interpretations.[2]

Alignment of CDFI Bond Program with existing CDFI Fund programs

The CDFI Fund has a 15-year history of funding a variety of CDFIs, delivery channels, and financial products. We recommend that the CDFI Bond program be structured to utilize and incorporate all the innovations and flexibility that the Fund has developed over the years. Along with the Federation of Community Development Credit Unions and the Community Development Bankers

Association, we recommend that the CDFI Bond Program "be consistent in the use of definitions, reporting requirements, and other program implementation features with the CDFI Fund's existing programs."

In particular, we recommend that the program explicitly recognize the role of CDFI-certified intermediaries. The $100-million minimum bond size virtually ensures the need for aggregators. This should include, for example, the National Federation of Community Development Credit Unions, which is a certified CDFI intermediary with a 30-year history of channeling investments into scores of CDCUs.

Structure and funding of Risk-Share pool

The program should provide maximum flexibility in mechanisms and structures for funding the risk-share pool. We recommend that participating CDFIs be allowed to pledge collateral while retaining control of the revenue stream. Providing cash or other collateral to a sterile reserve would significantly raise the cost of borrowing and deter participation by many CDFIs and funding of the reserve from the amount of a participant's borrowings should be recognized as appropriate.

While aggregation is likely to be common, we recommend that risk-share pools for a given bond not be based on joint and several liability: that is, if one participant in the aggregated pool does not perform, there should be no recourse other than to that institution's collateral or pro rata share of the pool. Also, a number of CDFI credit unions are members of the Federal Home Loan Bank system. Several have suggested that the procedures of the FHLBs be considered as a possible model for the CDFI Bond program.

Underwriting of participating institutions

To the extent that the administrators of the CDFI Bond program underwrite applicants, it is essential that these standards include credit union specific standards. In our view, NCUA's regulatory standards for adequately or well-capitalized credit unions should be applied. See 12 C.F.R. § 701.34(b), (c), Part 702 ("Prompt Corrective Action"). While non-depository CDFI loan funds, for example, may routinely have net-worth (net-asset) ratios of twenty-percent, it would be not be appropriate to require depository institutions such as credit unions to meet a similar standard.

Impact Measures

CDCUs predominately provide loans to low- and moderate-income households for essential needs. The current economic crisis has taken a heavy toll on access to productive credit for this large segment of the population. We recommend that impact measures should include the total volume and number of loans made by participating CDFI credit unions, rather than being limited to jobs created, businesses financed, and housing units created.

Thank you for your consideration of our views. Please feel free to contact me or CUNA's Assistant General Counsel Michael Edwards at 202-508-6736 if you have questions about our letter.

Sincerely,

Mary Mitchell Dunn
CUNA Deputy General Counsel and Senior Vice President

[1] See 12 C.F.R. pt. 704 app. B ("Chartering and Field of Membership Manual").
[2] See 12 C.F.R. pt. 704 app. B ("Chartering and Field of Membership Manual").