N A A H L

NATIONAL ASSOCIATION OF AFFORDABLE HOUSING LENDERS

August 15, 2011

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CDFI Fund
U.S Department of Treasury
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Dear Ms. Harris,

The nation's conventional lenders play a significant role in financing affordable rental housing in the United States, helping to revitalize low- and moderate-income (LMI) communities, and financing apartments that families are proud to call home. The National Association of Affordable Housing Lenders (NAAHL), a national network of for-profit and non-profit lenders committed to increasing the supply of private capital in underserved areas, appreciates the opportunity to comment on the CDFI Bond Guarantee Program.

Our vanguard of certified CDFIs range in size from $1.6 billion in assets to $150 million. Some have applied for, and received CDFI grants, while many others have been certified, but rely solely on private capital to fund their operations. CDFI investors include banks, public and private pension funds, insurance companies, and faith-based institutions. Our non-profit multifamily mortgage lenders have very successful track records of pooling private capital to finance affordable rental housing. Below are NAAHL's answers to selected questions posed in the notice.

General comment:
The CDFI Fund should exercise maximum flexibility in its implementation of the CDFI Bond Guarantee Program, to best support the capital needs of a wide range of CDFIs. Also, given the outstanding needs in communities across the country, affordable housing would be a good investment choice for this program.

1. Definitions
The CDFI Fund is interested in comments regarding all definitions found in the Act as they relate to the program, including the following:

(i)How should the term "low income" be defined as such term is used in Section 114A (a)(2)?

NAAHL recommends that the CDFI Fund follow the same income definitions contained in the Federal banking agencies' CRA regulations regarding income levels:

1) *Low-income,* which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.
2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

The regulations are online at: http://www.fdic.gov/regulations/community/community/index.html

(ii)How should the term "rural areas" be defined as such term is used in Section 114A(a)
(iii)How should the term "underserved'' be defined and/or measured

In 2005, the agencies added distressed or underserved nonmetropolitan middle-income geographies to their regulations; NAAHL recommends the Fund utilize these definitions for "rural areas" and "underserved". For more information, visit the CRA section of the FFIEC's website, at http://www.ffiec.gov/cra.

2. Use of Funds
(*1) The CDFI Fund invites and encourages comments and suggestions germane to the criteria and use of funds. The CDFI Fund is particularly interested in comments including the following:*

(i) Should there be any limitations on the types of loans that can be financed or refinanced with the bond proceeds? Are there any uses of bond or note proceeds that should be excluded or deemed ineligible regardless of the fact that the use was in a low-income or underserved rural area?

There should not be any limitations on the types of loans that can be financed or refinanced with the bond proceeds. The flexibility of the CDFI Fund's CDFI Financial Assistance Program, which permits a wide range of activities, provides an excellent model for the CDFI Bond Guarantee Program to emulate. Any loan to a CDFI, and any loan made by a CDFI or its designate, is an eligible use of funds.

Applicants should, however, discuss the creditworthiness of their investments and the impact of their investments on communities. Affordable housing is a lower risk investment. For example, loans secured by properties with Low Income Housing Tax Credit (LIHTC) investments have one of the lowest default rates of any loan type.

There should also be no prohibition against using the CDFI Bond Guarantee Program in conjunction with other government programs such as New Markets Tax Credits (NMTCs), LIHTCs, HOME funds or guarantee programs offered through the Small Business Administration or the U.S. Department of Agriculture.

(ii) Should the capitalization of: (1) Revolving loan funds; (2) credit enhancement of investments made by CDFIs and/or others; or (3) loan loss reserves, debt service reserves, and/or sinking funds in support of a Federally guaranteed bond be included as eligible purposes?

Capitalization of revolving loan funds should definitely be deemed an allowable use of funds. Revolving loan funds are a valuable tool for financing small businesses and construction projects, which lead to job creation and expansion.

Repayments under a revolving loan facility should be excluded from the definition of relending accounts. Since funds are lent and repaid continually over the life of the facility, repayments are normal in revolving loan funds. Borrowers are expected to draw funds only when they need them and repay them as soon as funds are available. Revolving loan fund repayments are different from repayments or prepayments under term loans and as such, should not count as balances in the CDFI Bond Guarantee Program's relending account. As long as a revolving loan facility remains in force and is available for use by the borrower, irrespective of its outstanding balances, it should count as "deployed" under the 90% deployment requirement.

(iii) Should there be any limits on the percentage of loans or notes refinanced with the bond proceeds? If so, what should they be?

There should be no limitations on the percentage of loans or notes refinanced with the bond proceeds because many CDFIs have 1) warehouse loans on their balance sheets; and 2) portfolios of loans at higher interest rates. For example, an organization that financed loans in 2008 at 7 percent should be allowed to refinance their loans at lower rates.

Refinancing can actually increase the amount of capital in the market, not simply replace existing capital, particularly if it takes the form of providing a secondary market. If lenders know that there is a secondary market that provides them liquidity in the event that they need to convert a loan asset into cash, they are more likely to engage in more lending.

iv) Should CDFIs be allowed to use bond proceeds to purchase loans from other CDFIs? If so, should the CDFI that sells the loans be required to invest a certain portion of the proceeds from the sale to support additional community development activities?

Yes, CDFIs should be allowed to use bond proceeds to purchase loans from other CDFIs. CDFIs that sell loans should be required to invest the majority of the proceeds from the sale to support additional community development activities. It is important that the bond program benefits the entire CDFI community, so that new affordable housing and community economic development activities can be financed in regions and geographies nationwide.

(i) In the event that the CDFI Fund determines that there is a risk of loss to the government for which Congress has not provided an appropriation, what steps should the CDFI Fund take to compensate for this risk?

a. Should the interest rate on the bonds be increased?

No. Increasing the interest rate will serve to undermine the statutory objectives. An indexed, predictable rate is key to market stability.

b. Should a larger risk-share pool be required?

It is important to require all participants to have "skin in the game". Increasing the risk share pool could be appropriate depending on the security for, and risks of, specific assets.

c. Should the CDFI Fund require restrictions, covenants and conditions (e.g., net asset ratio requirement, first loss requirements, first lien position; over-collateralization, replacement of troubled loans)?

All of these safeguards and standards should be considered, but in the context of an analysis of the unique characteristics (e.g., net asset ratio) of a CDFI's balance sheet. An appropriate mix of some of these restrictions, keyed to the business model of the CDFI and the characteristics of its assets, will help ensure the program's safety and soundness.

4. Eligible Entities

(i) Should the CDFI Fund require one qualified issuer (or appointed trustee) for all bonds and notes issued under the program?

Absolutely not. CDFIs that meet the Fund's qualifications should be allowed to be issuers or appointed trustees, up to the guaranty limit of 10 bonds.

(ii) Should the CDFI Fund permit an entity not yet certified as a CDFI to apply for CDFI certification simultaneous with submission of a capital distribution plan?

No.

(iv) The Act states that a qualified issuer should have ''appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes.'' How should the CDFI Fund determine that a qualified issuer meets these requirements?

The Fund should only consider applications from CDFIs with at least three years of certification and three years of audited financials confirming its positive net income and clean opinions.

(v) Should the CDFI Fund require the issuer to have a minimum net capital (real equity capital) and require a set amount of net capital be held for the term of the bond? If so, what is a reasonable level to require?

Yes, the Fund should establish capital standards.

There is precedence for a net capital requirement in the Federal Housing Finance Agency's (FHFA) rules for CDFI membership in Federal Home Loan Banks (FHLBs) – which were also subsequently used in the Small Business Loan Fund (SBLF). It is important, however, that there is <u>flexibility</u> on this point, as the example below illustrates.

The intent of a net asset ratio is to judge the relationship between an organization's assets and its liabilities. For example, one NAAHL member has about $20 million in net assets and total assets of about $220 million. A simple calculation would peg its net asset ratio at slightly less than 10 percent, beneath the 20 percent benchmark for CDFIs. But according to the CDFI's contractual agreement with its investors, it has virtually no liability for the $200 million in mortgages in which they have invested. Virtually all losses flow through to the investors, so the CDFI really has no liabilities.

As both the CDFI Fund and a Federal Home Loan Bank acknowledged, the actual net asset ratio for this CDFI was 46 percent, well above the 20 percent benchmark.

Conclusion

Thank you for the opportunity to comment on this important new program. We look forward to working with you to increase the flow of private capital to financing affordable rental housing.

Sincerely,

Judith A. Kennedy
President and CEO

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