



August 15, 2011

Ms. Jodie Harris  
Policy Specialist  
CDFI Fund  
U.S. Department of Treasury  
601 13<sup>th</sup> Street, N.W.  
Suite 200 South  
Washington, DC 20005  
*By –mail to [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov)*

Comments on CDFI Bond Guaranty Program  
In response to FR Doc. 2011-16682

Dear Ms. Harris:

On behalf of ROC USA, LLC and its subsidiary ROC USA<sup>®</sup> Capital, I appreciate the opportunity to submit the following comments on rules to govern the CDFI Bond Guaranty Program. ROC USA<sup>®</sup> Capital is a certified CDFI financing the preservation and improvement of manufactured home communities for low-income households through resident ownership. ROC USA Capital is the only national lender providing this critical financing to this underserved segment of the affordable housing marketplace. With 50,000 manufactured home communities across the nation that are home to over 2 million low-income homeowners, the CDFI Bond Guaranty Program offers an unprecedented opportunity to serve these low-income homeowners with long-term low-cost community acquisition, infrastructure improvement, in-fill home development and single-family home loans.

ROC USA began its national work in the manufactured home community sector in 2008. ROC USA Capital has built a \$21.5 million loan portfolio since that time. As such, ROC USA Capital can be counted among the majority of CDFIs around the country that will not be able, at least in the short-term, to be a direct issuer of \$100 million in bonds for its own account. We participated in the preparation of and wish to endorse the recommendations contained in OFN's Position Paper. We focus our comments here on how CDFIs like ROC USA Capital can best access the CDFI Bond Guaranty Program to support their financing products and expand their impact. In addition to making the Program easily accessible to smaller CDFIs, we believe the CDFI Fund is presented with the following major challenges in designing Rules for and administering the Program:

- 1) As a financial guaranty program, the Rules and allocation of guaranty authority should be designed to spread the risk of loss to the U.S. Treasury as much as possible, which is the overriding goal of any financial guaranty or insurance program. We believe this goal is**

best accomplished by structuring the Rules to enable the greatest number of CDFIs, large and small, to participate such that the risk of loss to the Treasury is not concentrated in a small number of CDFIs;

- 2) Unlike the CDFI Fund's direct funding programs, the authorizing statute for the Bond Guaranty Program requires potential issuers to be approved within 90 days of receipt of complete applications. This poses an administrative challenge to properly vet applications quickly and thoroughly to ensure that the \$1 billion in annual guaranty authority will be obligated to qualified issuers within each fiscal year. We believe this can be best accomplished by clearly establishing in the Rules the expectations of a qualified issuer, which should incorporate substantially different standards than the qualifications of a CDFI to operate its own lending program;
- 3) Recognizing the wide array of CDFIs of differing sizes, geographic areas served and eligible lending activities under the CDFI Fund's authorizing legislation, the Rules should provide flexibility for qualified issuers to use a variety of bond issuance structures most beneficial to the business models and the markets served by the CDFIs which will access the Program through qualified issuers and
- 4) Recognizing that there are other federal government guaranty and insurance programs that support the lending of many CDFIs, provide in the Rules a priority for innovation and impact in underserved markets, continuing to grow the value proposition CDFIs create and maintain in the community and economic development field

**1. Spreading Guaranty Risk** - The statute provides for the Treasury Department to issue up to \$1 billion in guaranty authority each year in increments of not less than \$100 million. Therefore, as many as ten issuers can be approved each year, or as many as 30 issuers in total over the three remaining years of guaranty authority. If the Rules provide for only approval of 10 CDFIs each year as direct issuers, or 30 in total over three years, the goal of spreading the risk of loss among many CDFIs will be defeated as bond guaranty authority will be concentrated in relatively few CDFIs. To better manage the risk of loss and enable a broad number of smaller CDFIs to participate, the Rules should provide some availability of annual guaranty authority to those CDFIs with capacity to be direct issuers of \$100 million but reserve the larger portion of each year's \$1 billion to be allocated to a single issuer or a few Special Purpose Entities (SPEs). A single issuer, or a few SPEs, will have the flexibility to create several bond pools to support different asset classes and a large number of CDFIs. Pools can be structured for the many types of CDFI lenders across the nation, active in affordable housing lending, small business lending, different kinds of community facility lending and supporting other specific asset classes. Such pools can be structured to both make loans to CDFIs and purchase project-specific loans from CDFIs. In this manner, CDFIs which cannot support \$100 million in borrowing can access the guaranty resource in amounts appropriate to their capacity, borrowing needs and for the asset class(es) which they best support.

The only other approach that will spread the risk of loss beyond 30 CDFIs over three years would be to produce Rules which promote the formation of consortia of CDFIs around specific asset classes. Such consortia would then designate an issuer and apply together with one Capital Distribution Plan of at least \$100 million to support aggregate lending around a specific asset class. In the Program's initial year, with an application, approval and contracting process for the allocation of \$1 billion to be accomplished before September 30, 2012, this approach would seem to place an extraordinary burden on CDFIs to quickly identify and structure agreements with their peers. In subsequent years, this may be the best approach. In the Program's initial year, however, we believe the risk of loss can be best mitigated by a single issuer model or a few SPE issuers.

**Qualifications of Issuers and Application Requirements** - If the approach described above to mitigating the risk of loss to the federal government is considered most prudent, it follows that the qualifications of issuers will be substantially different than those of a CDFI operating a lending program for its own account. To approve a single master issuer, or a few SPEs, capable of establishing and managing several pools of bond proceeds to serve a large number of CDFIs with an array of asset classes that they finance, qualified issuers should have to demonstrate experience and capacity working with and on behalf of multiple CDFIs in a joint financing structure. If a consortium of CDFIs applies, the application should have to identify the CDFI, or a third party partner, with the experience and capacity to manage the bond structure, loan origination and servicing processes proposed. There are several CDFIs, intermediaries serving the CDFI industry and private firms that can demonstrate such experience and capacity. Other than those CDFIs which have the capacity to be direct issuers of \$100 million, the Rules should provide for applications from qualified issuers that demonstrate the aggregation and management experience described above to work successfully with and on behalf of multiple CDFIs.

By way of illustration only, ROC USA, LLC provides one potential model. Its members and sponsors include other certified CDFIs, such as NCB Capital Impact and New Hampshire Community Loan Fund, each of which has invested in ROC USA Capital's national financing model. Our sponsor NeighborWorks America, through its certified CDFI Community Housing Capital, has participated in loans originated by ROC USA Capital. Our other LLC member, Corporation for Enterprise Development (CFED) is a key partner innovating in the manufactured housing sector, integrating our work with other national initiatives delivering EnergyStar rated new manufactured homes to the market to benefit low-income homeowners.

Since the authorizing statute requires the CDFI Fund to approve issuers within 90 days of receiving complete applications, prioritizing in the Rules the above qualifications of issuers should enable the CDFI Fund to more easily meet this statutory deadline. We urge the CDFI Fund to adopt Rules that provide for the allocation of some of the \$1 billion in annual guaranty authority to CDFIs that propose to be direct issuers, but allocates the majority of the first year's authorization for a single issuer or a few SPE issuers.

Given the recommendation above regarding the qualifications of issuers, we believe the essential elements of a successful application and Capital Distribution Plan will be:

- 1) Identification of the Pools, or other mechanisms, the proposed issuer intends to establish to deliver capital to multiple asset classes and geographies and serve the needs of the greatest number of CDFIs;
- 2) Sources and Uses of Funds Statement adequately addressing the statutory requirements of the Program to use at least 90% of bond proceeds for eligible community and economic development purposes; providing for at least the minimum 3% risk share pool and, if applicable, establishing Relending Accounts for each identified pool;
- 3) Cash Flow Presentation for the Term of the Bonds proposed, or each pool of bonds, demonstrating how the investor receives full repayment from the issuer's lending activities and how any other assets of the issuer at the end of the bond term are to be disposed of;
- 4) A Presentation of the Loss History of the CDFI(s) and/or Asset Class(es) to be financed using bond proceeds;
- 5) A Risk Mitigation Strategy, identifying any credit enhancement or other risk mitigation elements of the issuer both within and external to the bond structure, which may be additional to the required minimum 3% risk share pool;
- 6) A Sensitivity Analysis quantifying the adequacy of the Risk Mitigation Strategy based on different levels of presumed losses;
- 7) A Pipeline of Potential Investments using bond proceeds to support the specific request for the guaranty authority, identifying the CDFIs that are already committed to the proposal and, if applicable, how the issuer/aggregator will secure the involvement of other CDFIs;
- 8) A narrative justification of the need for the use of the CDFI Bond Guaranty Program to support the CDFI lending activities proposed and why other federal or state bond financing programs or financial guaranty or insurance programs cannot adequately be used for the same lending activities and
- 9) Qualified issuers should not be required to obtain a credit rating from a third party rating agency. Such a process would likely render it impossible to implement the Program in the timeframes established in the authorizing statute. The CDFI Industry simply is not well enough understood by the major rating agencies to complete a rating process quickly.

**Flexibility of Bond Issuance Structures** – We fervently believe that a “one size fits all” approach to bond structures would be a mistake. Given the broad array of CDFIs of differing size, geographic service areas and/or low-income populations served and a diverse set of loan product offerings which require different bond terms to be supported, the Rules should provide for the maximum flexibility of bond structures. The CDFI Fund should not attempt to define in the Rules the one or two bond structures that will be acceptable. Rather, the Rules should rely on the Capital Distribution Plans submitted by each proposed issuer to define the appropriate bond structure(s) for the asset classes and CDFIs using the particular issue. Furthermore, we believe that while the U.S. Treasury has a keen interest in ensuring that all issuers adequately mitigate the risk of loss to the government, the CDFI Fund should not attempt in the Rules to establish minimum credit enhancement thresholds for different asset classes or types of CDFIs above the mandated 3% risk share pool established in the authorizing statute. Rather, it should be

incumbent on the CDFI or CDFIs submitting a Capital Distribution Plan to justify the risk mitigation elements of its proposal with loss history data and other information, including any additional credit enhancement proposed above the 3% minimum. The CDFI Fund can then either approve or reject a particular Capital Distribution Plan on its merits. We also believe that a combination of bond proceeds and sponsor resources should be permitted to meet the 3% minimum risk share requirement. Any higher threshold proposed in a specific Capital Distribution Plan should be able to make use of an array of credit enhancement and risk mitigation tools appropriate to the identified risks, as long as the 90% deployment test is also met.

**Facilitating Innovation and Impact in Underserved Markets** – The Request for Comments seeks a definition of “underserved markets”. CDFIs serve a diverse set of underserved markets, identified by geography, low-income population and asset class. Since we know the affordable housing sector best, our response to this question addresses that sector. Within the past few years, Congress did substantial work on this issue when it addressed the GSEs “Duty to Serve” underserved markets. Congress identified for the GSEs the following three underserved segments of the affordable housing marketplace: 1) rural housing; 2) housing serving low- and very low-income people and 3) manufactured housing. We recommend establishing criteria for Capital Distribution Plans addressing affordable housing that target impact in as many of these markets as possible.

We agree with OFN that the definition of low-income geographies should be based on MSAs as defined in the CDFI Authorizing Statute (7 CFR part 1805) rather than by census tract. As other CDFI Programs allow, the Rules should also recognize CDFIs that serve low-income populations as well as low-income geographical areas. We agree that the definition of “rural” should be the U.S. Department of Agriculture’s definition of rural areas found 7 CFR Part 3550.

Perhaps the greatest value of the CDFI Bond Guaranty Program is the access it offers CDFIs to long-term fixed-rate capital. Many CDFIs serving divergent asset classes suffer from “asset liability matching challenges”, whereby sources of capital have repayment terms which are shorter than the terms of the CDFI loans to borrowers that the capital supports. This problem in the CDFI industry restricts product offerings of many CDFIs and/or puts their managers at significant risk of replacing capital every few years to fund their loans. Some excellent examples of how this effects lending are contained in the OFN Position Paper. Having said that, the Program should not be used to substitute for other federal guaranty, insurance or long-term direct loan products available today.

There are other federal and state resources that provide long-term fixed rate financing for rental housing and single-family homeownership. State housing finance agencies issue tax-exempt mortgage revenue bonds for these purposes, and the GSEs, Federal Housing Administration (FHA) , VA and U.S. Department of Agriculture (USDA) operate either direct loan or mortgage insurance programs for many affordable housing purposes. In the manufactured housing sector, the GSEs provide sufficient financing to investor-owned manufactured home communities. We believe the focus of this Program for the manufactured housing sector should be promoting resident-owned communities and loans to homeowners or homebuyers who also control title to the land beneath their homes. Alignment of land

ownership and homeownership through these models has been demonstrated to build wealth for low-income homeowners rather than saddling them with depreciating assets.

We do not mean to imply that the federal and state programs cited above are sufficient to meet the demand for affordable housing among low- and moderate-income households. However, we believe the CDFI Bond Guaranty Program should prioritize in its Rules, as well as require in the Capital Distribution Plans, justification for how the CDFI and/or its loan products to be guaranteed by the Program serve markets that are not otherwise served by existing state and federal bond programs, the GSEs or other financial guaranty and insurance programs.

In the affordable housing sector, shared equity homeownership communities like the resident-owned manufactured home communities ROC USA Capital finances, as well as smaller rental apartment projects serving low-income families, which are often unsubsidized, supportive housing projects, single-family homeownership projects in rural areas and single-family home loans to homeowners who own the land on which their manufactured home sits should be priorities. These uses of capital are either not eligible for the existing state and federal programs cited above, or the costs of accessing such programs are prohibitive for many of these smaller projects CDFIs finance. The pre-development and acquisition loans that many CDFIs provide to affordable housing sponsors are critical to moving these affordable housing projects forward, but again this financing is ineligible for the FHA, VA and USDA programs.

We know of other federal loan guaranty programs for charter school development, though we do not know the eligibility requirements of these programs. For the CDFI Bond Guaranty Program to generate the impact desired and continue to foster innovation within the CDFI Industry, allocations of guaranty authority should be focused on uses in underserved markets that cannot be met through the use of other state and federal financing resources, or are currently not well served by these other resources.

**Specific Responses to the Request for Comments:** ROC USA Capital has the following other specific comments, which will make the Program most accessible and useful to CDFIs of ROC USA Capital's size:

**Refinancing of the existing loans of CDFIs should be an eligible use**, and there should be no limit on how much a particular CDFI uses bond guaranty authority for this purpose. As long as CDFIs can make a credible case that their borrowers and the underserved communities their borrowers operate within benefit from refinancing of existing loans that should be sufficient. We expect that many CDFIs will be able to use the Bond Guaranty Program to offer fully amortizing rather than balloon loan products. This, in and of itself, has tremendous value to borrowers serving lower-income communities.

**Calls on the Guaranty:** We agree with OFN's position that the Rules should provide for guaranty payments to be made prior to the issuer liquidating available assets. We expect that the Federal Finance Bank, as investor in the bonds, will not want to wait for liquidation of assets by the issuer to receive its bond payments. Moreover, there is a cost to CDFIs and their borrowers with such an approach, because the Federal Finance Bank will likely add a risk premium to its pricing model if the

guaranty cannot be immediately called when an issuer is determined unlikely to make required payments on the bonds.

**Underwriting Criteria for CDFI Borrowers:** We do not believe it is the intent of the authorizing legislation for the CDFI Fund to establish in the Rules underwriting criteria for end borrowers of CDFI loans. CDFIs are the primary customer of the Program and should be the focus of the CDFI Fund's review of Capital Distribution Plans. Having said that, should asset-backed pools be proposed by one or more issuers, the Capital Plan supporting such asset-backed pools should put forward basic underwriting standards for loans to be eligible to be included in such pools. In our view, it is not the role of the CDFI Fund in establishing the Rules to address all of the potential underwriting standards that may apply to various classes of loans originated by CDFIs. That would be too cumbersome and of little value. The Capital Plans submitted should address such underwriting standards and demonstrate the historical performance of loans underwritten and approved with such standards.

I thank you for the opportunity to submit these comments on this groundbreaking Program. We look forward to the active participation of ROC USA Capital, the CDFI members of ROC USA, LLC and the CDFIs across the country affiliated through ROC USA Network in the CDFI Bond Guaranty Program during its initial years.

Respectfully,

A handwritten signature in blue ink that reads "Michael Sloss". The signature is fluid and cursive, with the first name "Michael" and the last name "Sloss" clearly legible.

Michael Sloss  
Managing Director, ROC USA Capital