



April 8, 2013

Lisa M. Jones
Manager
CDFI Bond Guarantee Program
CDFI Fund
Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, D.C. 20220

Dear Ms. Jones,

The National Federation of Community Development Credit Unions (the “Federation”) is pleased to have an opportunity to offer these comments on the interim rule dated February 5, 2013 (the “Interim Rules”) implementing the CDFI Bond Guarantee Program (the “Program”). The Program represents a significant opportunity for the CDFI Fund to enhance the role of CDFIs and expand their ability to provide financing in many of the nation’s poor and underserved communities. We are excited about the Program’s potential and applaud the CDFI Fund staff for the work that they have put into developing the Interim Rules.

The Federation represents 250 community development credit unions (“CDCUs”) that serve predominately low-income communities throughout the United States. Our member CDCUs serve 2.5 million members and in aggregate hold more than \$15 billion in community-controlled assets. The following comments are therefore aimed at ensuring that the Program remains usable by all CDFIs, particularly CDCUs.

1. Amend Program collateral requirements to comply with NCUA regulations applicable to CDCUs

The importance of the Program for CDCUs is the potential it represents as a large source of secondary capital. For many successful CDCUs, growth is limited by their net worth (capital) which can only increase through retained earnings and secondary capital. National Credit Union Administration (“NCUA”) designated low-income credit unions can borrow subordinated, unsecured debt as secondary capital to (1) increase their net worth, (2) expand their deposit base and (3) generate loans for the full range of credit needs in underserved communities, including but not limited to housing, microenterprise, working capital for small businesses, education, and other essential needs of their members.

To realize the full potential for development that the CDFI Fund could have on predominately low-income communities, the Interim Rules should permit the use of Bond Loan proceeds and Secondary Loans as sources of secondary capital for CDCUs.



A. Secondary capital should be an Eligible Purpose of Bond Loan proceeds

There is no express language in the definition of “Eligible Purposes” under the Interim Rules that prohibits the use of Bond Loan proceeds for secondary capital purposes; however, the collateral requirements imposed under the Interim Rules for making a Bond Loan would effectively prohibit the application of such proceeds as secondary capital. The Interim Rules require that each Bond Loan be a general recourse obligation of the Eligible CDFI that is secured by a first lien on the collateral and that each Secondary Loan be assigned as collateral for the Bond Loan (see e.g., Section 1808.101(e)(1)). In contrast, the rules promulgated by the NCUA that apply to all credit unions require that secondary capital be unsecured and subordinated to all other claims against the credit union (see Section 701.34(b)(6) of the NCUA Regulations (March 2010)). The application of the collateral requirements in the Interim Rules to loans made to CDCUs therefore makes it difficult, if not impossible, to use Bond Loan proceeds for secondary capital to support communities served by CDCUs.¹

B. Secondary capital should be an Eligible Purpose of Secondary Loans

The definition of Secondary Loan Requirements appears to acknowledge the need for Eligible CDFIs to have the flexibility to determine the credit and collateral criteria for Secondary Loans as between themselves and Secondary Borrowers consistent with what would be expected at the secondary loan level; however, the collateral requirements imposed under the Interim Rules for making Secondary Loans (i.e. that the Secondary Loan be secured by a first lien on pledged collateral) implies that there will be some collateral required (see Section 1808.307(f)).² If the provision of Secondary Loans for secondary capital (consistent with NCUA requirements that such capital be unsecured and subordinated) is not permitted under the Interim Rules, the Federation, as a certified CDFI intermediary and potential borrower of Bond Loan proceeds, would be unable to use such proceeds to make Secondary Loans to eligible CDCUs as secondary capital.

For these reasons, we urge the CDFI Fund to consider including an express exemption from the Bond Loan and Secondary Loan collateral requirements when such loans are made to CDCUs as secondary capital. Further, we note that consultation with NCUA may prove useful as it would help to ensure that any requirements in relation to Bond Loan or Secondary Loan proceeds used

¹ While the Interim Rules appear to offer the option of alternative collateral for the Bond Loan (i.e. a Principal Loss Collateral Provision), in practice this is not a practical option for CDCUs or the Federation because providing such collateral would significantly increase the cost of borrowing and significantly reduce the positive potential for such funding (see e.g., Section 1808.305(b)).

² The Interim Rules define Secondary Loan Requirements as “the minimum required criteria used by each Eligible CDFI (in addition to the Eligible CDFI’s underwriting criteria) to evaluate a request by a Secondary Borrower applicant for a Secondary Loan. The Secondary Loan Requirements will be established by the CDFI Fund and incorporated into the Bond Loan documents” (Section 1808.102(xx)). In contrast, the Interim Rules define Bond Loan Requirements as “the credit criteria, established by the CDFI Fund, for assessing the creditworthiness and capacity of each Eligible CDFI applicant to receive a Bond Loan” (Section 1808.102(o)).



to fund secondary capital under the Program remains consistent with NCUA requirements for CDCUs.

C. The Treasury Department has previously provided funding to CDCUs that complies with NCUA secondary capital requirements

In support of this request, we note that there is precedent for direct secondary capital investment in CDCUs by the Treasury Department in compliance with NCUA's requirements that such funding be unsecured and subordinated. In 2010 the Treasury Department's Community Development Capital Initiative ("CDCI") made \$69.9 million in low-cost, long-term secondary capital investments in 48 CDCUs pursuant to a provision that permitted CDCI Senior Securities to be ranked as unsecured, subordinated debentures.³ It is our unofficial understanding that the CDCI portfolio of CDFU securities has not experienced any losses to date.

In addition, over the last 15 years, the CDFI Fund has made multiple awards to the Federation as a certified CDFI intermediary in order for the Federation to provide secondary capital to credit unions. The Federation and similar organizations have deployed these funds enabling the CDFI Fund to reach a broader and more diverse group of credit unions, including smaller credit unions that would otherwise not be able to access such programs.

2. Allow Alternative Collateral Requirements for other CDFIs

In regard to the collateral requirements for Bond Loan proceeds for CDFIs other than CDCUs, we support the comments made by other organizations that the CDFI Fund should permit Bond Loans to be secured with loans other than Secondary Loans. This would enable CDFIs to finance a broader variety of Secondary Loans with maturities and amortization schedules that may not exactly match those of the Bond Loan. This would also enable CDFIs that receive funding from other sources (including other Federal Government programs), each with their own collateral requirements, to better manage their collateral obligations particularly where the Bond Loan proceeds and/or Secondary Loan is the source of only a portion of funding for an individual loan.

3. Permit Use of Proceeds to Purchase Existing Loan Portfolios

The Interim Rules are unclear as to whether the purchase of loans (including mortgage portfolios) is an Eligible Purpose. The purchasing of mortgage portfolios is a particularly important function for CDFI intermediaries, such as the Federation. With the support of the CDFI Fund, we have established a secondary market to purchase affordable mortgages issued by low-income credit unions, thus enabling

³ The Summary of Terms of CDCI Senior Securities provides that the securities shall be in the form of "[u]nsecured subordinated debentures ('CDCI Senior Securities') that do not constitute a class of stock or represent equity ownership in the issuing [qualifying credit union], but constitute secondary capital accounts of the [qualifying credit union] within the meaning of 12 U.S.C. 1790d(o)(2)(B)." Accessed on April 7, 2013 at <http://www.treasury.gov/initiatives/financial-stability/programs/investment-programs/cdci/Documents/CDCI20Credit20Union20Term20Sheet20042610.pdf>.



them to replenish their capital and make more loans in underserved communities. Credit unions generally face regulatory constraints, based in part on capital requirements, on their ability to originate and hold mortgages in portfolio. With rates currently reaching historic lows, some credit unions are unable to issue additional mortgages unless they are able to sell a portion of their current portfolio and replenish their capital base. The Program has the potential to enable the Federation to expand the scope of this capital replenishment and consequently increase the pool of funds available for mortgages.

For these reasons, we recommend that the Interim Rules expressly permit the use of Bond Loan proceeds and Secondary Loans to purchase loans (including mortgage portfolios) from other CDFIs and CDCUs.

4. Clarify Costs of Borrowing

There appear to be several layers of fees that may increase the effective interest rate beyond what the Federal Financing Bank will charge under the Bond and would make the Program uncompetitive against other sources of financing. For example, we currently use CDFI and other 0% interest funds to on-lend as secondary capital. We cannot determine the ultimate cost of borrowing at this time, but if it is much above Treasury plus 100 basis points, we will be constrained in our ability to utilize the Program in an efficient manner.

We therefore recommend increasing transparency as to the actual costs of borrowing under the Program as this would enable CDFIs, including the Federation, to assess whether they can participate in the Program. This is important not just for possible use as secondary capital, but also with regard to other financing generally.

We thank you for the opportunity to comment on the Program. Please feel free to contact me by phone 212-809-1850 or by email cmahon@cdcu.coop

Sincerely,

Cathie Mahon
President and CEO