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CERTIFIED PUBLIC ACCOUNTANTS

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Mr. Greg Bischak
Program Manager for Financial Strategies and Research
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, D.C. 20220
cdfihelp@cdfi.treas.gov

Re: Comments on Annual CIIS Reporting

Dear Mr. Bischak:

On behalf of the members of the New Markets Tax Credit ("NMTC") Working Group, we would like to provide the CDFI Fund our comments and recommendations on the annual reporting in the Community Investment Impact System ("CIIS"). The members of the NMTC Working Group are participants in the NMTC industry who work together to help resolve technical NMTC Program issues and provide recommendations to make the NMTC Program even more efficient in delivering benefits to qualified businesses located in low-income communities around the country. Our group includes over 50 organizations that are allocatees, nonprofit and for-profit community development entities ("CDEs"), consultants, investors, accountants and lawyers. We believe our comments and recommendations will help reduce confusion among CDEs when completing their annual reporting requirements in CIIS and more specifically related to reporting on multi-CDE transactions in CIIS.

For your convenience, we have provided a list of our recommendations and comments below.

General:

- We recommend the CDFI Fund provide greater detail about the purpose of the information gathered for the annual CIIS report, including the additional information for multi-CDE transactions. By gaining a better understanding of the purpose of the information, CDEs can more accurately interpret the questions and provide more accurate and relevant responses. For example, we can make recommendations regarding current data points by suggesting alternative items that may provide more accurate and applicable information to the CDFI Fund or suggest items that could be removed in order to reduce the reporting burden on CDEs. In addition, we can provide continued, beneficial feedback and suggest additional or alternative questions that might provide the CDFI Fund information more suited to its goal.

- With respect to the time spent completing CIIS reporting, we appreciate that the CDFI Fund tries to limit updates to only once per year. However, since CDEs report information in CIIS throughout the year based on various fiscal year end dates, when the CDFI Fund changes instructions, adds data points, or otherwise alters the reporting process, CDEs need additional time to adopt new strategies for data collection and analysis. For example, if a CDE's CIIS reporting deadline is in November and the CDFI Fund issues changes to CIIS in October, a CDE is forced to incorporate the changes in a short amount of time. We request that the CDFI Fund consider a phased approach so that changes are effective for the next reporting year rather than the current year. This is also important if CDEs are using customized systems to track and report CIIS data. Making changes to these systems requires both time and money, and having additional notice would help CDEs manage these changes properly. We believe having more time to incorporate the changes would also ensure CDEs are providing the most accurate and useful data to the CDFI Fund.

Institutional Level Report:

- In the Institutional Level Report, the CDE Certification Statement under Assurances, item 3 addresses the requirement for a subsidiary CDE to confirm it had an unqualified opinion on its audited financial statements. However, pursuant to the FAQ issued in September 2011, this requirement was removed and only the allocatee is required to submit audited financial statements to the CDFI Fund. We recommend the CDFI Fund update the Certification Statement in CIIS to incorporate the revision that subsidiary CDEs no longer are required to have audited financial statements prepared as documented in the FAQ.

Transaction Level Report:

- In the case in which a 7-year QLICI note has interest-only payments for the entire term and all principal is due at maturity, we recommend the CDFI Fund allow the CDE to select the longer than standard amortization period criteria on the transaction level report ("TLR"). The standard amortization period of a note of this type and purpose with conventional financing would be no less than 5 years and no longer than 25 years; therefore, some principal would typically be repaid before maturity. Since no payments of principal are required before maturity according to the terms of the described QLICI note, it is reasonable to determine the longer than standard amortization indicia is satisfied since the principal paid during the period of the note would be less under the QLICI terms than the standard note terms. However, due to the way the indicia is described in the TLR, a CDE may indicate the QLICI note terms do not meet the longer than standard amortization period since the amortization period is 0 years which is not longer than the standard 25 years. We recommend the CDFI Fund allow a CDE to select the longer than standard amortization period criteria for QLICI notes that require interest-only payments for a 7-year term and no principal payments until maturity.

- We recommend the CDFI Fund provide additional guidance regarding reporting outcome data, specifically job creation data, for a project that is under construction. We suggest that the CDE report construction job creation data on the TLR during the construction period and then FTEs for the tenant businesses after construction is complete. We suggest that construction be deemed complete after all buildings in the project have been placed in service. The CDFI Fund should consider adding a construction status data point for real estate projects. The options could include “in construction” and “construction is complete.” During the construction process, CDEs could report projected job creation data and once construction is complete, CDEs could report actual data. Additionally, we recommend CDEs separate jobs “created” from “retained” when reporting FTEs.

- We recommend that the CDFI Fund clarify that a Special Purpose Entity (“SPE”) QALICB is one that is controlled by or under common control with a non-real estate operating business and not a non-real estate QALICB. We further recommend that the CDFI Fund update the descriptions in CIIS to reflect this. In many cases SPEs are set up specifically because the related operating business would not otherwise qualify as a QALICB.

- We suggest that the CDFI Fund delete the section of guidance between data points PRJ-BE and PRJ-BF, as it appears that this section was included in error. The guidance still contains the older definitions of real estate and non-real estate and allows the CDE to use discretion in labeling the QALICB type.

Multi-CDE Transactions:

- We recommend the CDFI Fund provide a list of the fields required for multi-CDE reporting, including the information that should be entered initially and on an ongoing basis.

- Under the collaborative approach, a CDE may believe that a particular outcome is more attributable to that particular CDE and that it should not be allocated pro-rata. As long as all the CDEs agree and the total of the individual outcomes equals the total outcomes for the project, we recommend the CDFI Fund allow CDEs to allocate outcomes on a basis other than pro-rata.

- We recommend the CDFI Fund provide additional guidance regarding situations in which CDEs in a multi-CDE transaction have different reporting year ends. We suggest that allocatees report on a calendar year end basis, regardless of their fiscal year end, in order to avoid such confusion.

- Please provide additional guidance for multi-phase transactions or transactions that close with QEIs over more than one year. For example, for CDEs in the earlier phase of a project, are they required to update their data once the additional phases are complete? Additional clarification would be beneficial regarding the responsibilities for each of the various parties in these transactions.

- Under the collaborative approach, if the participating CDEs do not collect discrete breakouts of outcome data for each CDE's contribution to the project outcomes, then the CDEs should use a pro-rata share of relevant outcomes as measured by each CDE's share of the QEIs in the project, which does not account for the non-NMTC financing portion of the project. However, the lead approach allows the CDEs to report all outcomes, including those from non-NMTC financing. Please provide clarification regarding the reason for the difference in reporting between the two approaches.

- Please consider the following recommendations regarding the lead and collaborative approaches:
  - Lead approach - It would be beneficial if the information the lead CDE submits in CIIS is visible to the other CDEs or if that information could be automatically populated for each CDE to ensure each CDE in the transaction reports the same information. We suggest the CDFI Fund consider utilizing a template form on the multi-CDE screen in CIIS in which all required data could be inputted. From this template, the information would then automatically populate into the other CDEs' TLRs.
  - Collaborative approach - If all CDEs in a transaction agree to allocate the outcome data on a pro-rata basis, it would be beneficial if the initiating CDE in the transaction could enter the QEI amount and the outcome data and CIIS would automatically allocate the data on a pro-rata basis to the various CDEs.

- When preparing an allocation application, the outcome data reported by an applicant may not match the information entered in CIIS. If the lead approach is used, theoretically, each CDE in a transaction would be able to count the total outcomes and list them on each of their applications. Additionally, a CDE using the collaborative approach may want to describe the outcomes from non-NMTC financing in their application. The CDFI Fund should be aware of the potential for differing responses and perhaps provide additional guidance or clarification to allocatees submitting an application in future rounds.

We appreciate the time and effort the CDFI Fund spends on improving the New Markets Tax Credit Program and providing additional guidance and clarification. We hope that you find these comments and suggestions helpful. We believe these comments will increase efficiency and result in more accurate information reported to the CDFI Fund. Thank you in advance for your time and consideration. Please do not hesitate to contact us if you have any questions regarding our recommendations or comments. Also, please let us know if we can be of further assistance.

Yours very truly,
Novogradac and Company LLP

by Brad Elphick

Brad Elphick