

October 27, 2015

Ms. Annie Donovan
Director
U.S. Department of the Treasury
Community Development Financial Institutions Fund
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Attention: Comments/RIN 1505-AA92

Community Development Financial Institutions (CDFI) Fund – Interim Rule

Dear Ms. Donovan:

On behalf of NeighborWorks America (also known as the Neighborhood Reinvestment Corporation) I want to thank the CDFI Fund for the opportunity to provide comments regarding the Interim Rule effective August 31, 2015. Please note that these comments have not been submitted to or approved by NeighborWorks America's Board. They reflect the view of NeighborWorks America management and do not necessarily represent the views of its Board members, either collectively or as individuals.

NeighborWorks America is a Congressionally-chartered nonprofit organization established in 1978. We support a network of more than 250 local and regional nonprofit affiliated housing and community development organizations. Each NeighborWorks organization is assessed annually including on-site assessments once every three years and off-site assessments in each of the two other years. NeighborWorks America annually reviews independent audits submitted by each NeighborWorks organization for compliance and financial health, and annually collects, validates, and evaluates production data from each NeighborWorks organization. The results of these assessments are reported to NeighborWorks America staff and to each NeighborWorks organization. If the assessment reveals areas for improvement which are not addressed over time, eventually NeighborWorks organizations must relinquish their charters and leave the NeighborWorks network.

Among NeighborWorks America's network of affiliated organizations are more than 80 certified CDFIs. These organizations, located in 36 states and Puerto Rico, lend to individuals and homeowners, micro- and small businesses, other nonprofits and project developers through intermediary lending.

These comments have been developed with the input from a large cohort of the CDFIs within the NeighborWorks network. In writing these comments, our objective is to provide flexibility to NeighborWorks CDFIs, who meet strict annual requirements for financial health, accountability, and production, so that they can take full advantage of the CDFI Fund programs to broadly extend capital to creditworthy projects and individuals in low and moderate income communities.

Audits

The new interim guidance states that CDFIs now have up to nine months to submit their audits to CDFI Fund as a condition of an award. We support this change. In fact, under stringent NeighborWorks America guidelines, NeighborWorks organizations already surpass this requirement. NeighborWorks organizations must provide NeighborWorks America with a third-party audit no more than six months after the end of their fiscal years.

Development Services and Retained Earnings

NeighborWorks America applauds a number of the changes in the new interim rule which provide increased flexibility for CDFIs. The fact that Development Services can now be offered in conjunction with Financial Services (and not just Financial Products as previously) provides increased opportunities in lines of business to NeighborWorks CDFIs.

We also applaud the change that now allows Retained Earnings earned after the close of the last fiscal year but before the submission date of a new CDFI application to be counted toward matching funds.

There are also several areas where we have comments or concerns.

Accountability, Section 1805.201(b)(5)

Under the new interim rule a CDFI must now demonstrate accountability in its Investment Areas or Targeted Populations through representation on the board of directors or an advisory board. Representation in focus groups and/or surveys of possible target populations are no longer acceptable demonstrations of accountability to communities and residents.

We share the view that representation of residents and populations served should be a part of the organization's formal structure. However, NeighborWorks America opposes this change in the Rule because it limits flexibility for NeighborWorks CDFIs, who already meet strict accountability thresholds with regard to community representation.

Under their chartering requirements with NeighborWorks America, each NeighborWorks organization must have a governing board in which at least one-third of the board members are

low-income residents or low-income resident representatives of the NeighborWorks organization's service area.

However, we are, in fact, concerned that our rigorous standard of accountability does not meet the CDFI Fund requirements under the new Interim Rule.

For example, some NeighborWorks CDFIs have CDFI Target Investment Areas that may be broader than their NeighborWorks service area. Other NeighborWorks CDFIs make the point that the new accountability requirements make it difficult to retain CDFI certification if their Target Investment Areas change, as they may from time to time. They point out that the ability to use focus groups and surveys helps change target markets from year to year without recruiting, training and prematurely off-loading board members.

In summary, NeighborWorks America would like organizations to have the option to preserve other means of accountability, such as the standard to which they must adhere as NeighborWorks organizations, which demonstrates sufficient community representation.

Records and Review, Section 1805.201(c)

NeighborWorks America also has questions about the change in the Interim Rule which states that each certified CDFI is now subject to a periodic review and may have to provide information to the Fund to ensure compliance with CDFI certification requirements, organizational capacity, lending activity, community impacts, or other information.

Given that the Fund may already conduct recertification reviews every three years, this additional level of review seems to place a heavy burden on CDFIs and the Fund. It would be helpful if the CDFI Fund could provide further definition as to what a periodic review might entail, as well as more information explaining the circumstances under which such a review may be necessary. NeighborWorks America also requests that the Fund consider accepting other third party review information in lieu of undergoing a full-scale review by the Fund. This option would be cost-effective for both CDFIs and the Fund. For instance, CDFIs could submit a recent Aeris Review or a letter from NeighborWorks America's Organizational Assessment Division stating that the organization is in good standing.

Definition of Comprehensive Business Plan, Section 1805.104

A further area of concern is the new definition of Comprehensive Business Plan, which states that the plan must cover not less than the next five years. NeighborWorks America is sympathetic to the Fund's need to fulfill the requirements of its enabling legislation. However, many CDFIs have business plans or strategic plans that are three years long, rather than five years. Also, as written, this definition requires CDFIs to continually update their Business Plans, rather than relying on one Business Plan for a five year period. NeighborWorks America

requests that when the Fund evaluates Comprehensive Business Plans as part of an application process, it place the most emphasis on the first three years of the Plans. NeighborWorks also asks the Fund to consider changing the definition to “the plan must cover not less than ~~the next~~ five years” removing the words “the next” from its definition, so that CDFIs are not required to update their Comprehensive Business Plans on an annual basis.

Matching Funds, Section 1805.500

NeighborWorks America requests that the CDFI Fund consider that NeighborWorks America funds be counted as non-federal funds for matching purposes because of the pure fungibility of NeighborWorks America funding, and the fact that NeighborWorks funding includes donations and contributions from foundations and corporate sources as well as partnerships with financial institutions. In addition, NeighborWorks America would like to see a Matching Funds permanent exemption for the Native American CDFI Assistance (NACA) and Small and Emerging CDFI Assistance (SECA) programs as it remains difficult for CDFIs in either of these categories to find adequate matching funds. A permanent exemption would alleviate the extra effort and expense Native American, small, and emerging CDFIs expend to apply for severe constraints waivers each time they apply for CDFI funds.

Targeted Population and Target Market, Section 1805.201(b)(3)(iii)

Many NeighborWorks CDFIs work in rural areas and believe there are special circumstances which make it particularly challenging to extend credit to rural areas. NeighborWorks America requests that the CDFI Fund consider one of several options in order to assist CDFIs serving rural areas to better reach their markets.

The first option would be for the CDFI Fund to designate “rural” as an Other Targeted Population. Several of the NeighborWorks CDFIs provide loans and technical services to a statewide Investment Area with a statewide target market of underserved and distressed rural areas. The CDFI Fund’s designated Other Targeted Populations are: African Americans, Alaska Natives residing in Alaska, Asian Americans, Hispanics, Native Americans, Native Hawaiians residing in Hawaii, Women, Other Pacific Islanders residing in other Pacific Islands, and Other (reviewed and approved on a case-by-case basis). If rural were a designated Other Targeted Population, it would help these CDFIs to provide access to capital for home loans, housing and business development in areas where credit is scarce.

A second option would be for the CDFI Fund to allow CDFIs to designate all rural areas in a particular state as one Investment Area. This would allow CDFIs to accomplish the same goals of extending access to capital to underserved areas which are sparsely populated. It would alleviate the burden of a CDFI creating a number of Investment Areas within the rural portions of a state, some of which may not generate sufficient business in a given time period due to small populations and development opportunities.

A third related option would be to change the definition of Distressed Criteria for an Investment Area outside a Metropolitan Area under Section 1805.201 (b)(3)(ii)(D), which states that median income must be at or below 80 percent of the greater of the statewide non-Metropolitan area Median Income or the national non-Metropolitan Area Median Income. NeighborWorks proposes changing this definition to remove the 80 percent or below criteria. Median incomes are sufficiently low in many non-Metropolitan Areas; this further restriction to 80 percent unduly limits the areas where CDFIs can provide much-needed access to capital to rural communities and families.

Closing

NeighborWorks America thanks the CDFI Fund for the opportunity to comment on this Interim Rule. We welcome the changes to the new Interim Rule which augment the ability of CDFIs to provide access to capital.

Thank you for your consideration of these comments. We urge you to issue a new final CDFI regulation in the near future. While these interim regulations provide critical guidance to CDFIs, issuing final regulations will deliver additional certainty to the CDFI field as it looks to provide economic opportunity and affordable housing for Americans in urban, suburban, and rural markets across the country.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Weech", written over a circular stamp or seal.

Paul Weech
President and Chief Executive Officer