

March 1, 2021

Mr. Christopher Allison  
 NMTC Program Manager  
 Community Development Financial Institutions Fund  
 1500 Pennsylvania Avenue, NW  
 Washington, DC 20220

Re: Community Development Financial Institutions Fund; Notice and Request for Public Comment, Document 85 FR 85855

Dear Mr. Allison:

Opportunity Finance Network (OFN), a community development financial institution (CDFI) membership organization, appreciates the opportunity to comment on the New Markets Tax Credit (NMTC) application. OFN represents and serves a diverse membership of more than 330 CDFIs of various asset sizes and lending types serving rural, urban, and Native communities in all 50 states. In this letter OFN offers feedback on specific aspects of the proposed Allocation Application as well as suggestions to improve the administration of the NMTC.

**Increasing CDFI Participation**

The NMTC has proven to be an effective tool to channel private-sector financing into low-income and underserved communities. CDFIs are key players in the communities targeted by the NMTC. The law authorizing the NMTC recognized their role by automatically qualifying certified CDFIs as Community Development Entities (CDEs) eligible for the credit. In qualifying for CDFI Fund certification, CDFIs must demonstrate a commitment to low-income markets and have accountability to the markets they serve. CDFIs and their affiliate CDEs are ideal conduits for the NMTC and the allocation process and the application should recognize this role, and ensure they are competitive applicants for NMTC resources.

Despite this strong connection to the mission of the NMTC program, CDFIs still struggle to secure allocations each year. The chart below shares the percentage and dollar amount of NMTC allocations to CDFIs over the past several years. The percentage of allocatees that are certified CDFIs increased steadily between CY 2014 and CY 2018, however the Calendar Year (CY) 2019 allocations decreased in both the percentage of allocatees that are also CDFIs and the dollar amount allocated to CDFIs. The dollar amount of allocations to CDFIs peaked in 2017.

<b>Year</b>	<b>Allocations to CDFIs</b>	<b>Percentage of Allocatees that are CDFIs</b>
CY 2019	\$1.373 billion	38.2%
CY 2018	\$1.415 billion	42.5%
CY 2017	\$1.435 billion	39.7%
CY 2015-2016	\$2.410 billion (\$1.205 billion per year)	34.2%
CY 2014	\$1.062 billion	30.3%

To maximize the resources that reach targeted communities, the 2021 NMTC Application should include a more substantive discussion of the nature and focus of the Controlling Entity of the CDE.



The flexibility inherent to the NMTC program makes the intention of the Controlling Entity directly relevant to the outcomes of the project and the amount of subsidy invested and maintained in low-income communities. The current and proposed application questions are primarily focused on the Applicant itself, which may provide an advantage to commercial, for-profit Controlling Entities compared to those that are mission-driven organizations. A discussion of the Controlling Entity and whether it has a mission focus should be incorporated into the Phase I review process and scoring, with preference provided to those Controlling Entities that are also mission-driven organizations.

Similar to the discussion of Controlling Entities, the CDFI Fund should consider awarding priority points for applicants that can demonstrate accountability to low-income communities throughout their corporate structure. For CDFIs, a high level of community accountability is a part of the statutory requirements of CDFI certification. This guarantees that CDFIs will have a strong focus on community outcomes and have a built-in mechanism of maintaining accountability to the communities they serve.

With regard to the changes proposed in the draft application for comment, OFN does not support the elimination of "The Applicant's strategy for identifying potential borrowers, investees, or other customers in Low-Income Communities". The development of high-impact projects can require substantial effort and planning. The application should encourage CDEs to deepen engagement and relationship building with community partners and stakeholders. Community engagement is central to the work of CDFIs and helps ensure projects truly meet the needs of and provide a benefit to the community. Elimination of this question would disadvantage CDEs work on the ground to identify projects that fit the unique needs of a community.

The proposed addition of question 17(d) may skew the application towards CDEs being the sole funder of their transactions unless the multi-CDE structure provides "specific, quantifiable benefits" to the borrower. There are broad benefits to multi-CDE projects that may not be easily quantifiable. Community development projects often have multiple community partners, each of whom add value and perspective to the project. The addition of this question would also discourage partnerships and communication between CDEs, leading to CDEs potentially competing to fund the same project rather than working collaboratively to benefit the community. Additionally, this question would provide an advantage to larger, better resourced CDEs that can fund a project without partnerships.

The proposed changes to Question 18 may provide an advantage to applicants who perform more traditional underwriting processes. Many CDEs, including many CDFIs, use a less traditional underwriting process that better fits the communities they serve, including primarily low-income and Black, Indigenous, and People of Color ("BIPOC") owned or controlled businesses. The resulting dynamic could tilt the program toward conventional financing and the larger financial institutions that use conventional underwriting processes.

OFN opposes the elimination of the Healthy Foods Financing option and the elimination of Environmentally Sustainable outcomes in Question 25(a). With an increasing number of Americans facing food insecurity as a result of the COVID-19 pandemic, the NMTC is an important financing tool to support both traditional grocery projects as well as food banks and food pantries. In addition to challenges with access to healthy foods, low-income communities also face disproportionate impacts from pollution, climate change, and other environmental hazards. The Biden Administration's recent Executive Order on Climate Change directs federal agencies to collect data on the extent to which economic development initiatives support climate mitigation for historically disadvantaged populations. If this question is eliminated, the CDFI Fund would not have the ability to compile and track this information.



## **Increasing Racial Equity**

OFN supports additional changes to the NMTC application and program to increase racial equity. The CDFI Fund should create a permanent, ongoing technical assistance program with annual funding for training and technical assistance grants for new and emerging minority-controlled CDEs (M-CDEs). In 2017, the CDFI Fund provided a training and technical assistance program for M-CDEs and the CDFI Fund should build upon this effort. In addition to technical assistance, the program should work to help M-CDEs build their NMTC track record and capacity to increase their competitiveness for future allocations. The CDFI Fund should also consistently make public data on M-CDEs, including certification and allocation data. This data will allow the CDFI Fund, CDEs, policymakers and the public to be able to track the ability of M-CDEs to access NMTC allocations over time.

In addition to addressing the ability of M-CDEs to access allocations, the NMTC program should encourage efforts that will help increase the accountability and impact of minority serving CDEs. The application should emphasize the importance of community-accountability and equitable representation by requiring NMTC Advisory Boards to equitably represent the communities that the CDEs serve. OFN also recommends expanding the "Financing Minority Businesses" question to include "tenants that are minority-owned and controlled." Among existing questions in the application, there is no place to discuss multi-tenant projects that intentionally provide leased space for minority-owned or controlled organizations. The application should encourage CDEs to focus on projects that support minority tenants who will create jobs and build wealth within the community in NMTC-financed projects.

## **Improving Fee Transparency**

There is a very wide range of fees and expenses charged in the NMTC industry and these fees directly impact the net benefit to the low-income communities. OFN supports the efforts of the CDFI Fund to make transparency of fees a priority. The additional guidance and questions related to applicant fees and costs provided in the 2021 NMTC Application is an important first step. However, there is more that can be done. In circumstances where the CDE retains all or a portion of the tax credit equity, we suggest asking applicants to clarify how they use such retained proceeds and whether they will be re-deployed to the community. This would improve the CDFI Fund's understanding of how much credit equity is recycled to benefit low-income communities and how much creates an economic benefit for the CDE, its affiliates, or principals. Adjustments to the NMTC Application or its review process should be made to more directly encourage applicants to keep fees and costs low.

The review process for the application should more directly consider applicant fees and costs in determining the applicants that will ultimately receive NMTC awards and give priority to CDEs with a lower fee structure. Currently, the CDFI Fund awards allocations in descending order of the final rank score. The final rank score is based on the applicant's responses to Parts I and II of the application, which does not include any fee-related questions. One way to address this issue is to incorporate a fee-related question in the Business Strategy section. Then an applicant's total fee load would be considered as part of the Phase I scoring. We urge the CDFI Fund to consider adjustments to the Application or its review process to provide even more transparency around fees.

The New Markets Tax Credit has been a valuable and innovative tool to channel investment into underserved communities. Facilitating the participation of CDFIs and other mission-driven



organizations in the allocation and use of NMTC will enhance its reach and ensure it finances projects most in need of its limited subsidy. We look forward to the continued success of the Program.

Please do not hesitate to contact me if you any questions about these recommendations via email at [mshardwick@ofn.org](mailto:mshardwick@ofn.org) .

Sincerely,

Mary Scott Hardwick  
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Opportunity Finance Network