

Jeff Berg
Office of Legal Counsel
Community Development Financial Institutions Fund
601 13th Street NW, Suite 200 South
Washington, DC 20005

January 30, 2006

Dear Jeff:

The Opportunity Finance Network (formerly National Community Capital Association) appreciates the opportunity to comment on the Community Development Financial Institutions Fund's (CDFI Fund) Interim Rule [70 FR 73887] published December 13, 2005, and the Notice of Funds Available (NOFA) published on the same date. As you know, Opportunity Finance Network has a long history of working with the Fund to enhance the availability and utility of resources for the opportunity finance industry.

We commend the Fund on its FY2006 CDFI Program process and materials. We are pleased to see that the Fund has returned to its practice of evaluating applications based on CDFIs' own assessments of their markets and their strategic business plans for serving that market. As we have noted over the last several years, this kind of assessment is clearly what Congress intended in creating the CDFI Fund to serve opportunity markets across the United States. We also applaud the Fund's move away from an electronic application process that made it difficult for CDFIs to understand the application and its submission. Although the application period is still in progress, the feedback we have so far received from our network indicates far fewer technical problems than in previous years. The application centering around a comprehensive business plan is a significant step forward and away from the recent ill-informed changes.

In short, we strongly support the direction the Fund has taken with this year's funding rounds, and urge you to continue on this course through 2007 and beyond.

Comments on Interim Regulations

While we are pleased with the overall course of the Fund's programs, we continue to believe that the Fund could improve the regulations related to defining "certified" CDFIs. In particular, Opportunity Finance Network continues to have reservations about the Fund's interpretation of the "Primary Mission" and "Financing Entity" criteria. These two criteria form the crux of what it means to be a CDFI; the Fund's changes to the Rule in the last few years have compromised the integrity of the certification standard. In our comment letters of April 3, 2003; August 13, 2003; and April 4, 2005, Opportunity Finance Network expressed two concerns that remain troublesome:

- *The "primary mission" test.* A mission of community development sets CDFIs apart not only from conventional financial institutions but also from housing developers, real estate investors, and other entities that contribute to a community's economic vitality. In Section 1805.201(b)(1) of the Interim Rule, the Fund eliminates the requirement that an applicant and all its affiliates be devoted to community development. This change could open up CDFI certification to affiliates or subsidiaries of organizations that are not "purposefully directed toward improving the social and/or economic conditions of underserved people...and/or

residents of distressed communities (Sec. 1805.201(b)(1)).” If the Fund’s concern is that portfolio companies of a community development venture capital firm not disqualify a community development venture capital organization, then it should modify the regulations to reflect that specific circumstance rather than certify organizations with parent companies not dedicated to community development.

- *The “financing entity” test.* Opportunity Finance Network feels strongly that the current “financing entity” test (Sec. 1805.201(b)(2)) does not accurately reflect the finance-driven strategy of CDFIs and allows organizations that are not financing entities to be certified. The first set of regulations the Fund issued in October 1995 called for an institution’s “predominant business activity” to be provision of loans and investments (Sec. 1805.200(3)(d) of the Interim Rule published in Vol. 60, no. 202 of the Federal Register). We object particularly to the way the Fund considers “provision of Financial Products, Development Services, and/or other similar financing” (Sec. 1805.201(b)(2)) rather than only financial products; *and* requires that these activities constitute only a plurality of an organization’s activities (as outlined in the preamble to the 1999 Interim Rule making these changes, published in the Federal Register, Vol. 64, no. 210, page 59078).

We urge the Fund to reconsider these changes from the original intent of the eligibility criteria.

Conclusion

The FY2006 CDFI program represents significant improvement in implementing the Fund’s mandate to serve CDFIs with sound strategies and demonstrated market understanding. We applaud the Fund for these changes to the application process, but at the same time urge you to adjust the regulations on certification to ensure that resources reach institutions with financing as a primary strategy.

Thank you for the opportunity to comment. If you have questions or would like to discuss these comments further, please do not hesitate to contact me at 215.320.4304 or mpinsky@opportunityfinance.net.

Sincerely,



Mark Pinsky
President and CEO