



March 1, 2021

Mr. Christopher Allison
NMTC Program Manager
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Comments on the CY 2021 NMTC Allocation

Dear Mr. Allison:

On behalf of the members of the National Bankers Association (NBA), we submit the following comments, considerations, and recommendations in response to the CDFI Fund request for public comments on the NMTC Program Allocation Application (the “Application”) published in the Federal Register on December 29, 2020, which we believe will increase the effectiveness and efficiency in which applicants can apply for NMTC allocation. Since its founding in 1927, the National Bankers Association has served as a voice for Black and other minority-owned banks (MDI Banks). Now, with membership that includes Hispanic-American, Asian-American, Native-American, and women-owned banks, our reach extends across the country. We believe strongly in advocating for not only our member banks, but also the communities they serve. Our members help low and moderate-income communities across the country, and they are committed to providing economic revitalization to families in those neighborhoods.

Our membership believes the NMTC is a flexible tool for community economic development that has almost zero net negative impact on the federal budget and can lead to positive, catalytic change in the communities we serve. While we do not believe CDFI Fund or Treasury staff have necessarily intended for MDI banks and other minority CDEs to suffer disparate impact in the administration of the NMTC allocation process, there is simply no question that a self-perpetuating system has been created which has racially biased outcomes. We believe strongly that the Fund staff can make administrative changes in how the program is administered, all within statutory and regulatory authority, to allow more of the benefits of this program to reach minority communities, minority CDES, and MDI banks, which are the economic anchors of the minority and low-income communities we serve. The CDFI Fund should take this opportunity to eliminate the systemic bias in the NMTC Application process.

As you know, minority CDEs (MCDEs) in general, and minority depository institutions (MDIs) in particular, have experienced tremendous barriers to receiving allocations. They have experienced historically lower rates of success on applications, have received fewer repeat awards, and are largely unable to participate in other ways such as leverage lending due to regulatory or capital constraints. It has been further documented that these disparities are specifically attributable to the minority character of the CDEs, not just management capacity, community development track records, or other objective criteria. The allocation process has systematically denied fair and equitable access to this program to the very institutions and organizations that are the anchors in minority communities across the nation, robbing us of not only the ability to direct investment capital to projects desired by the communities we serve, but also of the capital generated by placing credits. Our member banks would be able to use this capital to, at a minimum, *double* the measurable impact of a NMTC award in our communities.

Since the NMTC program's inception over \$50 billion in allocation authority has been issued by the Secretary of the Treasury through the CDFI Fund. Of this amount, less than \$5 billion in allocation has been awarded to minority controlled CDEs, and of this amount less than \$1 billion has been awarded to minority depository institutions. An analysis by Hope Policy Institute of the CDFI Fund's reported data on the percentage of New Markets Tax Credits allocations going to Minority-owned or Minority-controlled CDEs shows great need for improvement. The percentage in terms of dollar amount of allocations from 2012 to 2019 has ranged from 5% in 2014 to a peak of 16% in 2017. To put these numbers in perspective, even in the peak year of 2017, minority CDEs received \$576 million dollars while white-led CDEs received over \$3 billion. The total amount of CDE fees generated by the program to date is between \$3 billion and \$6 billion. The failure of the CDFI Fund to award a fair share of NMTC allocation to minority CDEs has deprived those entities of desperately needed revenue and a self-generating source of capital, which in some cases could have saved one or more capital deprived MDIs.

In addition, the program tends to strongly favor repeat allocatees over first-time allocatees, further exacerbating the bias against MCDEs. Many non-minority CDEs have received allocation in nearly every round of the program, while many minority CDEs have never won an allocation, despite multiple years of applications, attending training seminars, and hiring expensive consultants. To add insult to injury, the few minority CDEs that have received allocation in past rounds do not receive repeat allocation at the same rate as non-minority CDEs. This preference for non-minority, non-CDFI, repeat winners creates inherent unfairness in the NMTC program by preventing otherwise qualified CDEs (e.g., those with track records of disadvantaged community investment) from gaining NMTC-like investment experience for want of the opportunity to deploy allocation.

Given the disparities discussed above, the NBA would like to submit the following recommendations for your consideration:

1. Applicants should be permitted to compete for allocation in pools against other similarly situated types of CDEs, including a pool for "emerging" CDEs that have never received allocation or have only received one or two allocations. Small community based CDEs should not be forced to compete for this important resource against massive global banks or repeat

allocates with large professional staffs who do nothing but apply for New Markets Tax Credits.

2. Repeat allocates should be strongly incentivized to enter material and legitimate alliances with MDIs and other minority CDEs on joint applications and deployment of NMTC allocation.
3. The incentives referenced above should be paired with limits on repeat allocation awards for those that refuse to enter meaningful partnerships with MDIs or minority CDEs.
4. The application needs to eliminate questions that disadvantage MDI banks when forced to compete against unregulated CDEs with no accountability. A prime example is the vague definition of "Enforcement Action" in the application. The definition should be amended to only require disclosure of a "formal action or administrative order...", bringing it in line with actual bank regulatory guidelines for disclosure of enforcement actions and not otherwise unduly disadvantaging MDI banks.
5. The application should allow for the NMTC experience by management staff or contracted professionals to be counted toward an applicant's experience. Entities that have been systemically excluded from this program could acquire talent to allow them to effectively deploy credits, but need to be able to reference, and receive credit for, this experience. Minority CDEs such as MDI banks are often categorically excluded because, at an entity level, they have not gained experience with a program that they are systemically excluded from. This is a vicious cycle and should be ended.
6. The Fund's definition of "community impact" should be broadened to consider the impact of reinvestment of capital generated by the allocation award itself. Significant points for community impact should go to CDEs that will commit to reinvest the fee revenue they earn into additional low-income community financial services, with the highest number of points awarded to CDEs that can leverage their earnings to multiply the impact of an allocation award beyond an individual project.
7. Requirements that a CDE must have demonstrated, recent transactional experience in a particular type of community development project (for example, healthy food or healthcare) in order to deploy allocation in those areas should be eliminated. These requirements are unduly restrictive, especially on Minority CDEs that may be attempting to address numerous community concerns. These restrictions remove CDE flexibility in deploying NMTCs in the real world. Conditions in the economy and community needs can change, and a CDE may be called upon to change tactics to achieve overall positive community outcomes. If a CDE can deploy in healthcare, they can also underwrite a healthy food or manufacturing project should a community's needs and economic circumstances demand such a shift.

Thank you for your careful consideration.

Sincerely,

A handwritten signature in blue ink that reads "Robert James II". The signature is written in a cursive style with a double underline under the name.

Robert James II

Chairman