

## **American Recovery and Reinvestment Act Program Plan New Markets Tax Credit (NMTC) Program**

### **OBJECTIVES**

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides an additional \$3 billion of investment authority for which tax credits may be claimed through the New Markets Tax Credit (NMTC) Program.

The NMTC Program is administered by the Department of the Treasury's Community Development Financial Institutions (CDFI) Fund. The NMTC Program facilitates investment in low-income communities by permitting taxpayers to receive a credit against Federal income taxes for making equity investments in designated Treasury-certified Community Development Entities (CDEs). The CDEs must, in turn, use substantially all of these NMTC proceeds to make loans and investments in businesses and real estate developments in low-income communities.

A CDE is any duly organized entity treated as a domestic corporation or partnership for federal income tax purposes that: (a) has a primary mission of serving, or providing investment capital for, Low Income Communities (LICs) or Low-Income Persons; (b) maintains accountability to residents of LICs through their representation on any governing board of the entity or any advisory board to the entity; and (c) has been certified as a CDE by the CDFI Fund.

The NMTC Program has three key objectives:

1. To increase the flow of equity capital into entities financing businesses and real estate projects in low-income communities;
2. To provide capital to low-income community businesses and real estate projects at better rates and terms than would otherwise be available in the marketplace; and
3. To provide jobs, and other goods and services, to residents of low-income communities.

The CDFI Fund allocates NMTC investment authority to CDEs through an annual competitive application process. Through 2008, the CDFI Fund has administered six different application rounds and allocated \$19.5 billion in NMTC investment authority to CDEs. In addition to the Recovery Act allocation authority described below, the CDFI Fund is authorized to allocate \$3.5 billion in NMTC investment authority through the 2009 application round.

The Recovery Act provided an additional \$3 billion of NMTC investment authority. Of this amount, \$1.5 billion will be made available to CDEs that had applied and scored

highly through the 2008 NMTC allocation round but did not receive an allocation; and \$1.5 billion will be added to the \$3.5 billion of NMTC investment authority that was already authorized to be allocated to CDEs through the 2009 application round. With the additional \$3 billion in Recovery Act allocation authority, the CDFI Fund will increase the volume of NMTC investments in low-income communities by 30% over what would otherwise have been available through Congressional authorizations, and will be able to make NMTC awards to approximately 60 additional CDEs -- helping to support economic development projects in more locations across the country.

## **ACTIVITIES**

The CDFI Fund anticipates announcing the CDEs that have been selected to receive the \$1.5 billion in 2008 Recovery Act NMTC authority in May of 2009, and the CDEs that have been selected to receive the \$1.5 billion in 2009 Recovery Act NMTC authority in October of 2009. The CDFI Fund anticipates entering into award agreements with the awardees within 60 days of the date of award announcement.

CDEs may use NMTC proceeds to finance a diversity of projects that spur economic development in distressed urban and rural communities throughout the United States, including operating businesses; retail, commercial, industrial, manufacturing, and mixed-use real estate projects; homeownership housing; and community facilities, such as charter schools, health care centers and child care facilities. These projects create construction and permanent jobs, and provide valuable goods and services to communities that lack such amenities.

## **CHARACTERISTICS**

The CDFI Fund does not make financial awards to CDEs. It is a non-refundable tax credit (i.e., a taxpayer may only claim the credit to the extent the taxpayer has offsetting tax liabilities), so there are no outlays of Federal dollars through the NMTC Program.

Rather, the CDFI Fund selects the CDEs that will receive an award and determines the amount of NMTC investment authority that each CDE may offer to its investors. The CDFI Fund has made 364 allocation awards to CDEs through six allocation rounds, allocating a total of \$19.5 billion in investment authority to CDEs. Awards have ranged in size from \$500,000 to \$178 million, and the average award amount over the past two allocation rounds has been approximately \$50 million per CDE. To date, investors have made qualified equity investments into CDEs totaling \$13.4 billion.

The CDFI Fund's aggregate NMTC investment authority is legislatively capped in any given year (for example, it was capped at \$3.5 billion in 2008). CDEs must apply to the CDFI Fund for the authority to issue tax credits to their investors. CDEs generally request, in the aggregate, 7-8 times more allocation authority than is available through the NMTC Program in any given year. Each application is reviewed and scored by three

independent application reviewers with expertise in community development finance. Applications must achieve minimum aggregate scoring thresholds in order to be considered for an award. Awards are made to applicants in descending order of application score until the year's allocation authority is fully expended. In any given round, only about one in four applicants is selected to receive an NMTC allocation award. Many organizations that meet the minimum scoring requirements necessary to receive allocation awards do not receive such awards, due to the limited amount of NMTC allocation authority available in each round.

While the recipients of the NMTC allocation authority are the CDEs, the primary beneficiaries of the NMTCs are the investors that make investments in the CDEs and claim tax credits against their Federal income taxes. The end-beneficiaries of the NMTC Program awards include individuals, small businesses, non-profits, profit organizations, Native American organizations, builders/contractors/developers, and homeowners that receive loans and investments from the CDEs at better rates and terms than would otherwise be available in the marketplace; as well as low-income community residents that receive jobs and/or goods and services from businesses operating in their communities.

**DELIVERY SCHEDULE**

<b>Activities by Quarter</b>	
<b>Fiscal Year 2009</b>	
<b>Feb - March 2009 2nd Quarter</b>	Conclude planning for implementing Recovery Act. Publish Amended Notice of Allocation Authority (NOAA) in the Federal Register. Evaluate applications from applicants that had applied under the 2008 NMTC allocation round.
<b>April - June 2009 3rd Quarter</b>	Make \$1.5 billion in NMTC allocation Recovery Act awards for 2008 round NMTC applicants Enter into Allocation Agreements with 2008 round NMTC Recovery Act awardees. Receive applications from organizations applying for NMTC allocation authority under the 2009 application round (\$5 billion in allocation authority available, including the additional \$1.5 billion of 2009 NMTC Recovery Act authority).
<b>July - September 2009 4th Quarter</b>	Begin evaluations of applications requesting awards of the 2009 NMC allocation authority. Provide post-award support to 2008 NMTC Recovery Act awardees.
<b>Fiscal Year 2010</b>	

<p><b>October - December 2009</b> <b>1st Quarter</b></p>	<p>First quarterly report due from 2008 NMTC Recovery Act awardees. Provide ongoing post-award support to awardees. Make \$1.5 billion in NMTC allocation Recovery Act awards for 2009 round NMTC applicants. Enter into Award Agreements with 2009 round NMTC Recovery Act awardees.</p>
<p><b>January - March 2010</b> <b>2nd Quarter</b></p>	<p>Second quarterly report due from 2008 NMTC Recovery Act awardees First quarterly report due from 2009 NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>
<p><b>April - June 2010</b> <b>3rd Quarter</b></p>	<p>Quarterly reports due from all NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>
<p><b>July - September 2010</b> <b>4th Quarter</b></p>	<p>Quarterly reports due from all NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>
<p><b>Fiscal Year 2011</b></p>	
<p><b>October - December 2010</b> <b>1st Quarter</b></p>	<p>Quarterly reports due from all NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>
<p><b>January - March 2011</b> <b>2nd Quarter</b></p>	<p>Quarterly reports due from all NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>
<p><b>April - June 2011</b> <b>3rd Quarter</b></p>	<p>Quarterly reports due from all NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>
<p><b>July - September 2011</b> <b>4th Quarter</b></p>	<p>Quarterly reports due from all NMTC Recovery Act awardees. Provide ongoing post-award support to awardees.</p>

## NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE

Awards and activities under the NMTC Program are not funded by federal financial assistance; thus, there are no outlays of Federal dollars under the program. Therefore, NEPA and other related statutes are not applied to NMTC Program awards.

### MEASURES

The primary goal of the Recovery Act is to ensure that critical financial resources are provided as quickly as possible to stimulate the economy and create jobs. To this end, the CDFI Fund has selected the following three measures to track its success:

*Measure 1 -- Number of days between the date of award notification and the date by which at least 85% of allocation agreements have been signed by awardees.*

The CDFI Fund is seeking to enter into allocation agreements with CDEs **within 60 days** of providing them with a Notice of Award. This is **an improvement of 70 days (or approximately 50 percent)** over the equivalent period of performance under the 2008 NMTC Program round, which was 130 days. Data supporting this measure will be available through the CDFI Fund's internal award tracking systems, and will be reported on a quarterly basis on the CDFI Fund's Recovery Act website.

*Measure 2 -- Percentage of total dollars that were invested by CDEs in "severely" distressed communities (i.e., census tracts with a poverty rate of a least 30 percent; a median family income at or below 60 percent of area median family income; and/or an unemployment rate at least 1.5 times the national average).*

The CDFI Fund anticipates that at least 75% of NMTC proceeds invested by CDEs will be invested in these severely distressed communities -- communities that far exceed the minimum qualifications of distress required under the NMTC statute (i.e., census tracts with a poverty rate of 20% or greater and/or a median family income at or below 80% of area median family income).

As stated earlier, competition for tax credit authority is extremely high and the application process is rigorous. Due to this competition, the CDFI Fund selects those CDEs willing to exceed the minimum requirements of the IRS regulations (e.g., by focusing on severely distressed communities; providing the most preferential rates and terms to their borrowers; by committing to invest more than the minimally required 85% of proceeds into low-income communities) and holds them to meeting these benchmarks as a condition of their allocation agreements.

The CDFI Fund collects data from its awardees on a number of elements, including: project address; type of project financed; description of project; total project costs; total amount of NMTC financing; rates and terms of financing; total number of temporary (construction) jobs created; total number of permanent jobs created or maintained; total square feet of real estate developed or rehabilitated; total number of housing units developed or rehabilitated; and total number of slots at community facilities (e.g., child care centers; charter schools; health care facilities).

This data is currently collected on an annual basis through the CDFI Fund's Community Investment Impact System (CIIS). Based on an analysis of performance by prior-year allocatees, the CDFI Fund anticipates that 75% of NTMC proceeds invested by Recovery Act awardees will be invested in communities that: (i) have poverty rates of 30% or greater; (ii) have median family incomes at or below 60% of the area median family income; and/or (iii) have unemployment rates at least 1.5 times the national average.

*Measure 3 – Number of jobs (construction jobs and full-time equivalent jobs) created or maintained by businesses or real estate projects financed by NMTC investors.*

The CDFI Fund anticipates that Recovery Act NMTC Program awardees will be able to create or maintain approximately **85,000 jobs** through the provision of loans and investments to businesses and real estate developers.

Through CIIS, the CDFI Fund collects data on jobs created and maintained, including construction jobs, at each of the businesses and real estate projects financed by the CDE. Based on a jobs-per-investment analysis of the current CIIS data collected from awardees, the CDFI Fund has determined that the \$3 billion of Recovery Act NMTC allocation authority will create or maintain 85,000 construction and full time equivalent jobs.

With respect to Recovery Act reporting requirements, the CDFI Fund will require its awardees to report jobs information on a quarterly basis to the CDFI Fund. It will roll this information into an annual jobs measure that will be reported on the CDFI Fund's Recovery Act website.

## **MONITORING/EVALUATION**

The CDFI Fund will provide extensive post-award monitoring of Recovery Act awardees. The CDFI Fund will work with award recipients to finalize their award agreements and implement activities as quickly as possible. The CDFI Fund will provide ongoing support for awardees to ensure compliance with the terms of the Recovery Act.

The CDFI Fund will utilize its existing compliance monitoring systems, with some modifications, to collect, analyze and report data from CDEs regarding the use of their NMTC allocation awards.

The primary reporting tool is the Community Investment Impact System (CIIS), a web-based system through which CDEs provide Institution Level Reports (ILR) and Transaction Level Reports (TLR). The ILR report will capture essential information such as income and expense data for the institution. The TLR provides specific information regarding financing, such as loans and investments originated by amount, transaction type, and purpose, and impact data for performance reporting such as the "net change in jobs from businesses at origination". These reports permit tracking of compliance for target markets in disadvantaged areas served; community development impacts (including job creation); and development services (e.g., housing and homeownership and credit counseling).

The CDFI Fund will adjust its reporting systems (all of which are web-based, electronic systems) to enable quarterly reporting from the Recovery Act awardees, and increase its compliance monitoring capabilities to accommodate the larger number of awardees and the increased frequency of reporting.

The use of CIIS will permit the CDFI Fund to provide agency level performance reporting to OMB and to provide quality assurance and compliance monitoring of the information that the awardees will be submitting independently to Recovery.gov. Moreover, the guidance for filing with CIIS will assist the awardees in providing consistent reporting to Recovery.gov.

### **TRANSPARENCY**

The CDFI Fund aggregates the data presented by CDEs and releases this information in an annual report, which is available on the CDFI Fund's website:

<http://www.cdfifund.gov/docs/2008/nmtc/CDFIPromotingInvest.pdf>

This report provides information in three key areas:

1. Application Data –an analysis of information that is collected at the time of NMTC application submission, including data provided by CDEs in their allocation applications, as well as an analysis of the scoring provided by the application reviewers.
2. Investor Data -- an analysis of information pertaining to the characteristics of the investments that are being made into CDEs, and the types of investor entities making those investments.
3. Investment Data -- an analysis of data pertaining to the loans and investments made by CDEs, as reported through CIIS.

In addition to this aggregated data, the CDFI Fund also releases, on an annual basis, a list of all projects and businesses financed by CDEs. This list, which is made available on the CDFI Fund's website in an Excel format, includes: the name of the CDE; the type of project (real estate vs. business); a brief description of the project; the location of the project (city and state; metro vs. non-metro); the amount of NMTC financing; and the amount of other financing. Here is a link to the report:

<http://www.cdfifund.gov/docs/nmtc/NMTC%20Projects%202007%20QALICB.xls>

### **ACCOUNTABILITY**

The CDFI Fund's Chief Operating Officer has been designated as the CDFI Fund's Accountable Official (AO) with respect to the Recovery Act dollars. CDFI's AO has established a working group consisting of representatives from the CDFI Fund's CDFI

Program office, the Resource Management office, the office of Legal Counsel, the Compliance office, and the Research office to ensure that all Recovery Act requirements are coordinated across the various units. To further this coordination, the CDFI Fund has posted a position announcement for a senior level staff person to serve as Recovery Act Program Manager. This person will be directly responsible for implementing all aspects of the Recovery Act program requirements.

CDFI's AO has daily conference phone calls with Treasury's Senior Accountable Official (SAO) to monitor the program. During these conference calls and on a monthly basis, the AO and the SAO monitor and review several items including obligations and outlays, acquisitions, performance measures, and accountability metrics. Corrective and/or preventive actions that are established as a result of the reviews will be tracked for implementation.

### **BARRIERS TO EFFECTIVE IMPLEMENTATION**

There are no significant risks that will impede implementation of Recovery Act activities, primarily because the CDFI Fund will be adhering to existing policies, procedures and protocols with respect to making Recovery Act NMTC awards and monitoring awardee compliance.

The CDFI Fund's organizational structure is designed, in part, to manage risks in the agency. Critical functions in the award selection, reporting and monitoring processes are distributed and coordinated across offices within the CDFI Fund.

Use of integrated IT systems across each office enable the CDFI Fund to further minimize risks associated with improper award determinations, improper activities by awardees, etc. In addition, through the compliance review process and site visits these risks will be mitigated.

### **FEDERAL INFRASTRUCTURE INVESTMENTS**

NMTC Program awards will not be used to invest in Federal infrastructure projects.