

## DEPARTMENT OF THE TREASURY

Dates:

## Community Development Financial Institutions Fund

**Funding Opportunity Title: Notice of Allocation Availability (NOAA) Inviting Applications for the Calendar Year (CY) 2022 Allocation Round of the New Markets Tax Credit (NMTTC) Program**

*Announcement type:* Announcement of NMTTC Allocation availability.

TABLE 1—CY 2022 ALLOCATION ROUND NMTTC PROGRAM CRITICAL DEADLINES FOR APPLICANTS

Description	Deadline/date	Time (eastern time—ET)	Submission method
Community Development Entity (CDE) Certification Application .....	December 2, 2022.	11:59 p.m. ET ...	Electronically via the Awards Management Information System (AMIS).
Request to modify CDE certification service area .....	December 2, 2022.	11:59 p.m. ET ...	Electronically via AMIS.
Subsidiary CDE Certification Application for meeting Qualified Equity Investment (QEI) issuance thresholds.	December 2, 2022.	11:59 p.m. ET ...	Electronically via AMIS.
CY 2022 Application Registration .....	December 15, 2022.	5:00 p.m. ET .....	Electronically via AMIS.
Last date to contact CDFI Fund staff .....	January 24, 2023.	5:00 p.m. ET .....	Electronically via AMIS.
CY 2022 Allocation Application (including required Attachments) .....	January 26, 2023.	5:00 p.m. ET .....	Electronically via AMIS.
Amendment request to add Subsidiary CDEs to Allocation Agreements for meeting QEI issuance thresholds.	March 6, 2023 ...	11:59 p.m. ET ...	Electronically via AMIS.
Amendment request to remove a Controlling Entity from Allocation Agreement(s).	March 6, 2023 ...	11:59 p.m. ET ...	Electronically via AMIS.
QEI Issuance and making Qualified Low Income Community Investments (QLICs) by.	May 4, 2023 .....	11:59 p.m. ET ...	Not Applicable.
Report QEIs and certify QLICs by .....	May 11, 2023 ....	11:59 p.m. ET ...	Electronically via AMIS.

*Executive Summary:* This NOAA is issued in connection with the CY 2022 allocation round (Allocation Round) of the New Markets Tax Credit Program (NMTTC Program), as authorized by Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106–554) as amended. Through the NMTTC Program, the Community Development Financial Institutions Fund (CDFI Fund) provides authority to certified CDEs to offer an incentive to investors in the form of tax credits over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in Low-Income Communities. Through this NOAA, the CDFI Fund announces the availability of \$5 billion of NMTTC Allocation authority in this Allocation Round. In this NOAA, the CDFI Fund specifically addresses how a CDE may apply to receive an

allocation of NMTTCs, the competitive procedure through which NMTTC Allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities.

### I. Allocation Availability Description

#### A. Programmatic changes from the CY 2021 allocation round:

*1. Prior QEI Issuance Requirements:* Prior-year NMTTC Allocatees will be subject to minimum thresholds for QEI issuance and closing of QLICs with respect to their prior-year NMTTC Allocations. These thresholds and deadlines have been revised in comparison to the CY 2021 NOAA. See Section III. A.5(a) of this NOAA for additional details.

### II. Allocation Information

*A. Allocation amounts:* Pursuant to the Taxpayer Certainty and Disaster Tax Relief Act of 2020, the CDFI Fund

expects that it may allocate to CDEs the authority to issue to their investors the aggregate amount of \$5 billion in equity as to which NMTTCs may be claimed, as permitted under IRC § 45D(f)(1)(D). Pursuant to this NOAA, the CDFI Fund anticipates that it may issue up to \$100 million in tax credit investment authority per Allocatee. The CDFI Fund, in its sole discretion, reserves the right to allocate amounts in excess of or less than the anticipated maximum allocation amount should the CDFI Fund deem it appropriate. The CDFI Fund reserves the right to allocate NMTTC authority to any, all, or none of the entities that submit applications in response to this NOAA, and in any amounts it deems appropriate.

*B. Type of award:* NMTTC Program awards are made in the form of allocations of tax credit investment authority.

*C. Program guidance and regulations:* This NOAA describes application and NMTC Allocation requirements for this Allocation Round of the NMTC Program and should be read in conjunction with: (i) the final NMTC Program Income Tax Regulations issued by the Internal Revenue Service (IRS) (26 CFR 1.45D-1, published on December 28, 2004), as amended and related guidance, notices and other publications; and (ii) the application and related materials for this Allocation Round. All such materials may be found on the CDFI Fund's website at <https://www.cdfifund.gov>. The CDFI Fund requires Applicants to review these documents. Capitalized terms used, but not defined, in this NOAA have the respective meanings assigned to them in the NMTC Program Allocation Application, Internal Revenue Code (IRC) § 45D or the IRS NMTC regulations. In the event of any inconsistency between this NOAA, the Allocation Application, and guidance issued by the CDFI Fund thereto, IRC § 45D or the IRS NMTC Regulations, the provisions of IRC § 45D and the IRS NMTC Regulations shall govern.

*D. Allocation Agreement:* Each Allocatee must sign an Allocation Agreement, which must be countersigned by the CDFI Fund, before the NMTC Allocation is effective. The Allocation Agreement contains the terms and conditions of the NMTC Allocation. For further information, see Section VI.B of this NOAA.

*E. Statutory and national policy requirements:* The CDFI Fund will manage and administer the NMTC Program in a manner so as to ensure that NMTC Allocations associated programs are implemented in full accordance with the U.S. Constitution, Federal Law, statutory, and public policy requirements: including, but not limited to, those protecting free speech; religious liberty; public welfare; the environment; and prohibiting discrimination.

### III. Eligibility

*A. Eligible Applicants:* IRC § 45D specifies certain eligibility requirements that each Applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional detail and certain additional dates that relate to the submission of applications under this NOAA for the available NMTC Allocation authority.

*1. CDE certification:* For purposes of this NOAA, the CDFI Fund will not

consider an application for an allocation of NMTCs unless: (a) the Applicant is certified as a CDE at the time the CDFI Fund receives its NMTC Program Allocation Application; or (b) the Applicant submits an application for certification as a CDE through AMIS by the deadline in Table 1. Applicants for CDE certification may obtain information regarding CDE certification and the CDE Certification Application process in AMIS on the CDFI Fund's website at <https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx>.

The CDFI Fund will not provide NMTC Allocation authority to Applicants that are not certified as CDEs or to entities that are certified as Subsidiary CDEs.

If an Applicant that has already been certified as a CDE wishes to change its designated CDE Service Area for this Allocation Round, then it must submit a CDE Service Area Amendment Application to request such a change from the CDFI Fund, and the application must be received by the CDFI Fund by the deadline listed in Table 1. A request to change a CDE's Service Area will need to include the revised service area designation and updated accountability information that demonstrates that the CDE has the required representation from Low-Income Communities in the revised CDE Service Area.

*2. Repayment or Refinancing of QEI with QLICI Proceeds:* An applicant must commit that it will not permit the use of the proceeds of QEIs to make QLICIs in Qualified Active Low-Income Community Businesses (QALICBs) where QLICI proceeds are used, in whole or in part, to repay or refinance a debt or equity provider whose capital was used to fund the QEI, or are used to repay or refinance any Affiliate of such a debt or equity provider, except where: (i) the QLICI proceeds are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB, and such reasonable expenditures were incurred no more than 24 months prior to the QLICI closing date; or (ii) no more than five percent of the total QLICI proceeds from the QEI are used to repay or refinance documented reasonable expenditures that are directly attributable to the qualified business of the QALICB. Refinance includes transferring cash or property, directly or

indirectly, to the debt or equity provider or an Affiliate of the debt or equity provider.

*3. Do Not Pay:* The CDFI Fund will contact the Do Not Pay Business Center to ensure that an Applicant, its Controlling Entity, and any Affiliate(s) are not prohibited from receiving federal funds. An Applicant, its Controlling Entity, and any Affiliate(s) reported by the Do Not Pay Business Center as having a pending or delinquent debt to the Federal government will be required to demonstrate that it has resolved such pending or delinquent debt. Applicants that fail to demonstrate resolution of such pending or delinquent debt to the Federal government will be found ineligible to receive an allocation.

*4. Controlling Entities:* An organization that was a Controlling Entity to an Allocatee in a prior round(s) and subsequently separated from that Allocatee, as a result of an amendment to the Allocation Agreement(s), may not claim the NMTC-related track record of such Allocatee.

*5. Prior award recipients or Allocatees:* Applicants must be aware that success in a prior application or allocation round of any of the CDFI Fund's programs is not indicative of success under this NOAA. For purposes of this NOAA, and eligibility determinations, the CDFI Fund will consider an Affiliate to be any entity that meets the definition of Affiliate as defined in the NMTC Allocation Application materials, or any entity otherwise identified as an Affiliate by the Applicant in its NMTC Allocation Application materials.

Prior award recipients of any CDFI Fund program are eligible to apply under this NOAA, except as follows:

*(a) Prior Allocatees and Qualified Equity Investment (QEI) issuance and Qualified Low Income Community Investment (QLICI) requirements:* CDEs that are Allocatees under the CY 2017 to the CY 2021 rounds must finalize at least the percentage of QEIs noted in Table 2 for each NMTC Allocation round and use at least the percentage of those QEIs designated in Schedule 1, section 3.2(j) of their Allocation Agreements to make QLICIs by the deadline in Table 1. CDEs that are Allocatees under the CY 2017 to the CY 2021 allocation rounds and CDEs that are Allocatees designated as Rural CDEs in their CY 2021 Allocation Agreement must meet the following thresholds.

TABLE 2—QEI ISSUANCE AND QLICI REQUIREMENTS

Prior round allocation	Finalized QEI requirement (percent)	Rural CDE finalized QEI requirement (percent)	QLICIs
CY 2017 .....	100	100	As stated in Schedule 1, Section 3.2(j) of the applicable Allocation Agreement.
CY 2018 .....	90	90	
CY 2019 .....	70	70	
CY 2020 .....	40	40	
CY 2021 .....	20	0	

In addition to the requirements noted above, a CDE is not eligible to receive an NMTC Allocation pursuant to this NOAA if an Affiliate of the Applicant is a prior Allocatee and has not met the minimum QEI issuance and QLICI thresholds as set forth in Table 2 for Allocatees in the prior allocation rounds of the NMTC Program.

For purposes of this section of the NOAA, the CDFI Fund will only recognize as “finalized” those QEIs that have been properly reported in AMIS Allocation and QEI Tracking System for Qualified Equity Investments (AQEIs) by the deadline in Table 1. Allocatees and their Subsidiary Allocatees, if any, are advised to access AMIS to record each QEI that they issue to an investor in exchange for cash. Furthermore, the CDFI Fund will only recognize QLICIs that have been certified in AMIS by the deadline in Table 1. Instructions on recording a QEI and QLICIs in AMIS are available at <https://www.cdfifund.gov/amisreporting>. Applicants may be required, upon notification from the CDFI Fund, to submit documentation to substantiate the required QEI issuance and QLICI thresholds.

Any prior Allocatee that requires action by the CDFI Fund (*i.e.*, certifying a subsidiary entity as a CDE; adding a subsidiary CDE to an Allocation Agreement; etc.) in order to meet the QEI issuance requirements above must submit a CDE Certification Application for Subsidiary CDEs and/or Allocation Agreement amendment requests by the respective deadlines in Table 1, in order to guarantee that the CDFI Fund completes all necessary approvals prior to the QEI issuance deadline in Table 1. Applicants for Subsidiary CDE certification may obtain information regarding CDE certification and the CDE Certification Application process in AMIS on the CDFI Fund’s website at <https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx>.

(b) *Pending determination of noncompliance or default:* If an Applicant is a prior award recipient or Allocatee under any CDFI Fund

program and if: (i) it has demonstrated noncompliance with a previous assistance or award agreement or default under a previous Allocation Agreement or pursuant to any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, the CDFI Fund will consider the Applicant’s application under this NOAA during the time period given for the entity to cure the noncompliance or default, and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default. Further, if an Affiliate of the Applicant is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) has demonstrated noncompliance with a previous assistance or award agreement or default under a previous Allocation Agreement or pursuant to any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, then the CDFI Fund will consider the Applicant’s application under this NOAA during the time period given for the entity to cure the noncompliance or default, and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default.

(c) *Noncompliance or default status:* The CDFI Fund will not consider an application submitted by an Applicant that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program if, as of the application deadline of this NOAA: (i) the CDFI Fund has made a final determination that such Applicant is noncompliant with a previously executed assistance or award agreement, or in default of a previously executed Allocation Agreement or any other agreement under any CDFI Fund program; and (ii) the CDFI Fund has provided written notification of such final determination to the Applicant; and (iii) the default occurs during the time period beginning 12 months prior to the application deadline and ending with the CY 2022 allocation award announcement.

Further, the CDFI Fund will not consider an application submitted by an Applicant with an Affiliate that is a prior award recipient or Allocatee under any CDFI Fund Program if, as of the application deadline of this NOAA: (i) the CDFI Fund has made a final determination that such Affiliate is noncompliant with a previously executed assistance or award agreement, or in default of a previously executed Allocation Agreement or any other agreement under any CDFI Fund program; (ii) the CDFI Fund has provided written notification of such final determination to the Affiliate; and (iii) the noncompliance or default occurs during the time period beginning 12 months prior to the application deadline and ending with the CY 2022 allocation award announcement.

(d) *Contacting the CDFI Fund:* Accordingly, Applicants that are prior award recipients and/or Allocatees under any CDFI Fund program are advised to comply with the requirements specified in assistance, allocation and/or award agreement(s). All outstanding reports and compliance questions should be directed to the Office of Compliance Monitoring and Evaluation (OCME) through a Service Request initiated in AMIS. Requests submitted less than 30 calendar days prior to the application deadline may not receive a response before the application deadline.

The CDFI Fund will respond to Applicants’ reporting, compliance and CDE certification inquiries Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m. ET, starting the date of publication of this NOAA through the “Last date to contact CDFI Fund staff” specified in Table 1. Inquiries received after the “Last date to contact the CDFI Fund staff” will be responded to after the Allocation Application deadline.

6. *Failure to accurately respond to a question in the Assurances and Certifications section of the application, submit the required written explanation, or provide any updates:* In its sole discretion, the CDFI Fund may deem the

Applicant's application ineligible, if the CDFI Fund determines that the Applicant inaccurately responded to a question, accurately responded to a question, but failed to submit a required written explanation, or failed to notify the CDFI Fund of any changes to the information submitted between the date of application and the date the Allocatee executes the Allocation Agreement, with respect to the Assurances and Certifications. In making this determination, the CDFI Fund will take into consideration, among other factors, the materiality of the question, the substance of any supplemental responses provided, and whether the information in the Applicant's supplemental responses would have a material adverse effect on the Applicant, its financial condition or its ability to perform under an Allocation Agreement, should the Applicant receive an allocation.

*7. Entities that propose to transfer NMTCs to Subsidiary CDEs:* Both for-profit and non-profit CDEs may apply for NMTC Allocation authority, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit Applicant wishing to apply for an NMTC Allocation must demonstrate, prior to entering into an Allocation Agreement with the CDFI Fund, that: (i) it controls one or more Subsidiary CDEs that are for-profit entities; and (ii) it intends to transfer the full amount of any NMTC Allocation it receives to said Subsidiary CDEs.

An Applicant wishing to transfer all or a portion of its NMTC Allocation to a Subsidiary CDE is not required to create the Subsidiary prior to submitting an NMTC Allocation Application to the CDFI Fund. However, the Subsidiary entities must be certified as CDEs by the CDFI Fund, and enjoined as parties to the Allocation Agreement at closing or by amendment to the Allocation Agreement after closing.

The CDFI Fund requires a non-profit Applicant to submit a CDE Certification Application to the CDFI Fund on behalf of at least one for-profit Subsidiary within 45 days after the non-profit Applicant receives notification from the CDFI Fund of its allocation award, as such Subsidiary must be certified as a CDE prior to entering into an Allocation Agreement with the CDFI Fund. The CDFI Fund reserves the right to rescind the award if a non-profit Applicant that does not already have a certified for-profit Subsidiary CDE fails to submit a CDE Certification Application for one or more for-profit Subsidiaries within 45 days of the date it receives notification from the CDFI Fund of its allocation award.

*8. Entities that submit applications together with Affiliates; applications from common enterprises:*

(a) As part of the Allocation Application review process, the CDFI Fund will evaluate whether Applicants are Affiliates, as such term is defined in the Allocation Application. If an Applicant and its Affiliate(s) wish to submit Allocation Applications, they must do so collectively, in one application; an Applicant and its Affiliate(s) may not submit separate Allocation Applications. If Affiliated entities submit multiple applications, the CDFI Fund will reject all such applications received, except for those state-owned or state-controlled governmental Affiliated entities. In the case of state-owned or state-controlled governmental entities, the CDFI Fund may accept applications submitted by different government bodies within the same state, but only to the extent the CDFI Fund determines that the business strategies and/or activities described in such applications, submitted by separate entities, are distinctly dissimilar and/or are operated and/or managed by distinctly dissimilar personnel, including staff, board members and identified consultants. In such cases, the CDFI Fund reserves the right to limit award amounts to such entities to ensure that the entities do not collectively receive more than the \$100 million cap.

If the CDFI Fund determines that the applications submitted by different government bodies in the same state are not distinctly dissimilar and/or operated and/or managed by distinctly dissimilar personnel, it will reject all such applications.

(b) For purposes of this NOAA, the CDFI Fund will also evaluate whether each Applicant is operated or managed as a "common enterprise" with another Applicant in this Allocation Round using the following indicia, among others: (i) whether different Applicants have the same individual(s), including the Authorized Representative, staff, board members and/or consultants, involved in day-to-day management, operations and/or investment responsibilities; (ii) whether the Applicants have business strategies and/or proposed activities that are so similar or so closely related that, in fact or effect, they may be viewed as a single entity; and/or (iii) whether the applications submitted by separate Applicants contain significant narrative, textual or other similarities such that they may, in fact or effect, be viewed as substantially identical applications. In such cases, the CDFI Fund will reject all applications received from such entities.

(c) Furthermore, an Applicant that receives an NMTC Allocation in this Allocation Round (or its Subsidiary Allocatee) may not become an Affiliate of or member of a common enterprise (as defined above) with another Applicant that receives an NMTC Allocation in this Allocation Round (or its Subsidiary Allocatee) at any time after the submission of an Allocation Application under this NOAA. This prohibition, however, generally does not apply to entities that are commonly controlled solely because of common ownership by QEI investors. This requirement will also be a term and condition of the Allocation Agreement (see Section VI.B of this NOAA and additional application guidance materials on the CDFI Fund's website at <https://www.cdfifund.gov> for more details).

*9. Entities created as a series of funds:* An Applicant whose business structure consists of an entity with a series of funds must apply for CDE certification for each fund. If such an Applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an Applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it must submit a CDE Certification Application for the Applicant and each fund it would like to participate in the NMTC Program, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an Applicant and its related funds are properly classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds is classified as a single partnership or corporation or as multiple partnerships or corporations, an Applicant may not transfer any NMTC Allocations it receives to one or more of its funds unless the fund is a certified CDE that is a Subsidiary of the Applicant, enjoined to the Allocation Agreement as a Subsidiary Allocatee.

*10. Entities that are Bank Enterprise Award Program (BEA Program) award recipients:* An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive an NMTC Allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a BEA Program award in addition to an NMTC Allocation for the same investment in a CDE.

#### IV. Application and Submission Information

*A. Address to request application package:* Applicants must submit applications electronically under this NOAA, through the CDFI Fund's AMIS. Following the publication of this NOAA, the CDFI Fund will make the electronic Allocation Application available on its website at <https://www.cdfifund.gov>.

*B. Application content requirements:* Detailed application content requirements are found in the application related to this NOAA. Applicants must submit all materials described in and required by the application by the applicable deadlines. Applicants will not be afforded an opportunity to provide any missing materials or documentation, except, if necessary and at the request of the CDFI Fund. Electronic applications must be submitted solely by using the format made available via AMIS. Additional information, including instructions relating to the submission of supporting information (e.g., the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, organizational charts), is set forth in further detail in the CY 2022 NMTC Application—AMIS Navigation Guide for this Allocation Round. An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service (IRS) and assigned to the Applicant and, if applicable, its Controlling Entity. Electronic applications without a valid EIN are incomplete and cannot be transmitted to the CDFI Fund. For more information on obtaining an EIN, please contact the IRS at (800) 829-4933 or [www.irs.gov](http://www.irs.gov). Do not include any personal Social Security Numbers as part of the application.

*C. NMTC Application Registration (Application Registration):* CY 2022 Allocation Round Applicants are first required to complete and save the Application Registration section of the NMTC Allocation Application in AMIS by the Application Registration deadline in order to be able to submit the remaining sections of the CY 2022 Allocation Application by the Application deadline. Applicants that do not complete and save the Application Registration by the Application Registration deadline, will not be able to subsequently submit a CY 2022 Allocation Application in AMIS.

An Applicant may not submit more than one application in response to this NOAA. In addition, as stated in Section III.A.8 of this NOAA, an Applicant and

its Affiliates must collectively submit only one Allocation Application; an Applicant and its Affiliates may not submit separate Allocation Applications except as outlined in Section III.A.8 above. Once an application is submitted, an Applicant will not be allowed to change any element of its application.

*D. Form of application submission:* Applicants may only submit applications under this NOAA electronically via AMIS. Applications and required attachments sent by mail, facsimile, or email will not be accepted. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the CDFI Fund in the implementation of electronic reporting requirements.

Electronic applications must be submitted solely by using the CDFI Fund's website and must be sent in accordance with the submission instructions provided in the CY 2022 NMTC Application—AMIS Navigation Guide for this Allocation Round. AMIS will only permit the submission of applications in which all required questions and tables are fully completed. Additional information, including instructions relating to the submission of supporting information (e.g., the Controlling Entity's representative signature page, Assurances and Certifications supporting documents, investor letters, and organizational charts) is set forth in further detail in the CY 2022 NMTC Application—AMIS Navigation Guide for this Allocation Round.

*E. Application submission dates and times:* Electronic applications must be received by the Allocation Application deadline in Table 1. Electronic applications cannot be transmitted or received after Allocation Application deadline in Table 1. In addition, Applicants must electronically submit supporting information (e.g., the Controlling Entity's representative signature page, investor letters, and organizational charts). The Controlling Entity's representative signature page, investor letters, and organizational charts must be submitted on or before the Application deadline in Table 1. For details, see the instructions provided in the CY 2022 NMTC Application—AMIS Navigation Guide for this Allocation Round on the CDFI Fund's website.

Applications and other required documents received after this date and time will be rejected. Please note that the document submission deadlines in this NOAA and/or the Allocation Application are strictly enforced.

*F. Intergovernmental Review:* Not applicable.

*G. Funding Restrictions:* For allowable uses of investment proceeds related to an NMTC Allocation, please see 26 U.S.C. 45D and the final regulations issued by the Internal Revenue Service (26 CFR 1.45D-1, published December 28, 2004 and as amended) and related guidance. Please see Section I, above, for the Programmatic Changes of this NOAA.

*H. Paperwork Reduction:* Under the Paperwork Reduction Act (44 U.S.C. chapter 35), an agency may not conduct or sponsor a collection of information, and an individual is not required to respond to a collection of information, unless it displays a valid OMB control number. Pursuant to the Paperwork Reduction Act, the application has been assigned the following control number: 1559-0016.

#### V. Application Review Information

*A. Review and selection process:* All Allocation Applications will be reviewed for eligibility and completeness. To be complete, the application must contain, at a minimum, all information described as required in the application form. An incomplete application will be rejected. Once the application has been determined to be eligible and complete, the CDFI Fund will conduct the substantive review of each application in two parts (Phase 1 and Phase 2) in accordance with the criteria and procedures generally described in this NOAA and the Allocation Application.

In Phase 1, two reviewers will evaluate and score the Business Strategy and Community Outcomes sections of each application. An Applicant must exceed a minimum overall aggregate base score threshold and exceed a minimum aggregate section score threshold in each scored section in order to advance from the Phase 1 to the Phase 2 part of the substantive review process. In Phase 2, the CDFI Fund will rank Applicants and determine the dollar amount of allocation authority awarded in accordance with the procedures set forth below.

##### *B. Criteria:*

##### *1. Business Strategy (25-point maximum):*

(a) When assessing an Applicant's business strategy, reviewers will consider, among other things: the Applicant's products, services and investment criteria; a pipeline of potential business loans or investments consistent with an Applicant's request for an NMTC Allocation; the prior performance of the Applicant or its Controlling Entity, particularly as it

relates to making similar kinds of investments as those it proposes to make with the proceeds of QEIs; the Applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; and the extent to which the Applicant intends to make QLICs in one or more businesses in which persons unrelated to the entity hold a majority equity interest.

Under the Business Strategy criterion, an Applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which are flexible or non-traditional in form and on better terms than available in the marketplace. An Applicant will also score well to the extent that, among other things: (i) it has identified a set of clearly-defined potential borrowers or investees; (ii) it describes the due diligence it will conduct prior to making QLICs to determine whether a QALICB will remain financially viable and operational; (iii) it has a track record of successfully deploying loans or equity investments and providing services similar to those it intends to provide with the proceeds of QEIs; (iv) its projected dollar volume of NMTC Allocation deployment is supported by its track record of deployment; and (v) in the case of an Applicant proposing to purchase loans from CDEs, the Applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to Low-Income Communities.

(b) *Priority Points*: In addition, as provided by IRC § 45D(f)(2), the CDFI Fund will ascribe additional points to entities that meet one or both of the statutory priorities. First, the CDFI Fund will give up to five additional points to any Applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the CDFI Fund will give five additional points to any Applicant that intends to satisfy the requirement of IRC § 45D(b)(1)(B) by making QLICs in one or more businesses in which persons unrelated (within the meaning of IRC § 267(b) or IRC § 707(b)(1)) to an Applicant (and the Applicant's Subsidiary CDEs, if the Subsidiary Allocatee makes the QLIC) hold the majority equity interest. Applicants may earn points for one or both statutory priorities. Thus, Applicants that meet the requirements of both priority categories can receive up to a total of ten additional points. A record of having successfully provided capital or technical assistance to disadvantaged

businesses or communities may be demonstrated either by the past actions of an Applicant itself or by its Controlling Entity (e.g., where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An Applicant that receives additional points for intending to make investments in unrelated businesses and is awarded an NMTC Allocation must meet the requirements of IRC § 45D(b)(1)(B) by investing substantially all of the proceeds from its QEIs in unrelated businesses. The CDFI Fund will include an Applicant's priority points when ranking Applicants during Phase 2 of the review process, as described below.

2. *Community Outcomes (25-point maximum)*: In assessing the potential benefits to Low-Income Communities that may result from the Applicant's proposed investments, reviewers will consider, among other things, the degree to which the Applicant is likely to: (i) achieve significant and measurable community development outcomes in its Low-Income Communities; (ii) invest in particularly economically distressed markets including areas identified in the Allocation Application; (iii) engage with local communities regarding investments; and (iv) involve community representatives in the governing board and/or advisory board in approving investment criteria or decisions.

An Applicant will generally score well under this section to the extent that, among other things: (a) it will generate clear and well supported community development outcomes; (b) it has a track record of producing quantitative and qualitative community outcomes that are similar to those projected to be achieved with an NMTC Allocation; (c) it is working in particularly economically distressed or otherwise underserved communities; (d) its activities are part of a broader community or economic development strategy; (e) it demonstrates a track record of community engagement around past investment decisions; and (f) it ensures that an NMTC investment into a project or business is supported by and will be beneficial to Low-Income Persons and residents of Low-Income Communities.

*C. Phase 2 Evaluation:*

1. *Application Ranking and Anomaly Reviews*: Using the numeric scores from Phase 1, Applicants are ranked on the basis of each Applicant's combined scores in the Business Strategy and Community Outcomes sections of the application plus one half of the priority points. If, in the case of a particular

application, a reviewer's total base score or section score(s) (in one or more of the two application scored sections) varies significantly from the other reviewer's total base scores or section scores for such application, the CDFI Fund may, in its sole discretion, obtain the evaluation and numeric scoring of an additional third reviewer to determine whether the anomalous score should be replaced with the score of the additional third reviewer.

2. *Late Reports*: In the case of an Applicant or any Affiliates that have previously received an award or NMTC Allocation from the CDFI Fund through any CDFI Fund program, the CDFI Fund will deduct up to five points from the Applicant's rank score for the Applicant's (or its Affiliate's) failure to meet any of the reporting deadlines set forth in any assistance, award or Allocation Agreement(s), if the reporting deadlines occurred during the period from January 14, 2022 to the application deadline in this NOAA.

3. *Prior Year Allocatees*: In the case of Applicants (or their Affiliates) that are prior year Allocatees, the CDFI Fund will review the activities of the prior year Allocatee to determine whether the entity has: (a) effectively utilized its prior-year NMTC Allocations in a manner generally consistent with the representations made in the relevant Allocation Application (including, but not limited to, the proposed product offerings, business type, fees and markets served (i.e. service area) and notable relationships); (b) issued QEIs and closed QLICs in a timely manner; and (c) substantiated a need for additional NMTC Allocation authority. The CDFI Fund will use this information in determining whether to reject or reduce the allocation award amount of its NMTC Allocation Application.

An Applicant will be evaluated more favorably under Part V. of the Application to the extent that it clearly explains: (i) how it ensures that the NMTCs allocated to QALICBs did not exceed the amount necessary to assure QALICB feasibility; (ii) the community outcomes or benefits that were generated as a result of the transaction; (iii) source(s) and amount(s) of leveraged debt from all sources; (iv) the NMTC-related fees and third-party expenses paid by the QALICB or the QALICB's Affiliates, including actions taken to control expenses paid by QALICBs and investors; and (v) quantifies the value of the investment acquired by the QALICBs at the end of the seven-year credit period, to the extent the Applicant's past transactions have been structured to allow QALICBs

to acquire a portion of *QLICs* at the end of the seven-year credit period. An Applicant will also be evaluated favorably to the extent the activities undertaken with the NMTC dollars are consistent with the business strategy presented in the relevant Allocation Application (e.g. product offerings; business type; fees and markets served; notable relationships, etc.).

**4. Management Capacity:** In assessing an Applicant's management capacity, the CDFI Fund will consider, among other things, the current and planned roles, as well as qualifications of the Applicant's (and Controlling Entity's, if applicable): principals; board members; management team; and other essential staff or contractors, with specific focus on: experience in providing loans; equity investments or financial counseling and other services, including activities similar to those described in the Applicant's business strategy; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax credit programs; and the Applicant's (or its Controlling Entity's) financial health. CDFI Fund evaluators will also consider the extent to which an Applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements and the Applicant's projected income and expenses related to managing an NMTC Allocation.

An Applicant will be generally evaluated more favorably under this section to the extent that its management team or other essential personnel have experience in: (a) identifying and underwriting loans and/or equity investments or providing financial counseling and other services in Low-Income Communities, if applicable, particularly those likely to be served with *QLICs* from the Applicant; (b) asset and risk management; and (c) fulfilling government compliance requirements, particularly tax credit program compliance. An Applicant will also be evaluated favorably to the extent it clearly explains its due diligence when providing businesses with financing or investment; demonstrates strong financial health and a high likelihood of remaining a going-concern, including support from the Controlling Entity, if applicable; it clearly explains its NMTC fees as well as levels of income and expenses; has policies and systems in place to ensure portfolio quality, ongoing compliance with NMTC Program requirements; and, if it is a Federally-insured financial institution, has its most recent Community

Reinvestment Act (CRA) rating as "outstanding."

**5. Capitalization Strategy:** When assessing an Applicant's capitalization strategy, the CDFI Fund will consider, among other things: the key personnel of the Applicant (or Controlling Entity) and their track record of raising capital, particularly from for-profit investors; the extent to which the Applicant has secured investments or commitments to invest in NMTC (if applicable), or indications of investor interest commensurate with its requested amount of NMTC Allocations, or, if a prior Allocatee, the track record of the Applicant or its Affiliates in raising Qualified Equity Investments in the past five years; the Applicant's strategy for identifying additional investors, if necessary, including the Applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the distribution of the economic benefits of the tax credit; and the extent to which the Applicant intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations.

An Applicant will be evaluated more favorably under this section to the extent that: (a) it or its Controlling Entity demonstrate a track record of raising investment capital; (b) it has secured investor commitments, or has a reasonable strategy for obtaining such commitments, or, if it or its Affiliates is a prior Allocatee with a track record in the past five years of raising Qualified Equity Investments and; (c) it generally demonstrates that the economic benefits of the tax credit will be passed through to a QALICB; and (d) it intends to invest the proceeds from the aggregate amount of its QEIs at a level that exceeds the requirements of IRC § 45D(b)(1)(B) and the IRS regulations. In the case of an Applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the Applicant or from Affiliated entities, said Applicant will be evaluated more favorably to the extent that it will offer products with more favorable rates or terms than those currently offered by its investor(s) or Affiliated entities and/or will target its activities to areas of greater economic distress than those currently targeted by the investor or Affiliated entities.

**6. Contacting Applicants:** As a part of the substantive review process, the CDFI Fund may permit the NMTC Allocation recommendation panel member(s) to request information from Applicants for the sole purpose of obtaining, clarifying or confirming application information

or omission of information. In no event shall such contact be construed to permit an Applicant to change any element of its application. At this point in the process, an Applicant may be required to submit additional information about its application in order to assist the CDFI Fund with its final evaluation process. If the Applicant (or the Controlling Entity or any Affiliate) has previously been awarded an NMTC Allocation, the CDFI Fund may also request information on the use of those NMTC Allocations, to the extent that this information has not already been reported to the CDFI Fund. Such requests must be responded to within the time parameters set by the CDFI Fund. The selecting official(s) will make a final allocation determination based on an Applicant's file, including, without limitation, eligibility under IRC § 45D, the reviewers' scores and the amount of NMTC Allocation authority available.

**7. Award Decisions:** The CDFI Fund will award allocations in descending order of the final rank score, subject to Applicants meeting all other eligibility requirements; provided, however, that the CDFI Fund, in its sole discretion, reserves the right to reject an application and/or adjust award amounts as appropriate based on information obtained during the review process.

**D. Allocations serving non-metropolitan counties:** As provided for under Section 102(b) of the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432), the CDFI Fund shall ensure that Non-Metropolitan counties receive a proportional allocation of QEIs under the NMTC Program. The CDFI Fund will endeavor to ensure that 20 percent of the *QLICs* to be made using QEI proceeds are invested in Non-Metropolitan counties. In addition, the CDFI Fund will ensure that the proportion of Allocatees that are Rural CDEs is, at a minimum, equal to the proportion of Applicants in the highly qualified pool that are Rural CDEs. A Rural CDE is one that has a track record of at least three years of direct financing experience, has dedicated at least 50 percent of its direct financing dollars to Non-Metropolitan counties over the past five years, and has committed that at least 50 percent of its NMTC financing dollars with this NMTC Allocation will be deployed in such areas. Non-Metropolitan counties are counties not contained within a Metropolitan Statistical Area, as such term is defined in OMB Bulletin No. 10-02 (Update of Statistical Area Definitions and Guidance on Their Uses) and applied using 2010 census tracts. Applicants

that meet the minimum scoring thresholds will be advanced to Phase 2 review and will be provided with “preliminary” awards, in descending order of final rank score, until the available allocation authority is fulfilled. Once these “preliminary” award amounts are determined, the CDFI Fund will then analyze the Allocatee pool to determine whether the two Non-Metropolitan proportionality objectives have been met.

The CDFI Fund will first examine the “preliminary” awards and Allocatees to determine whether the percentage of Allocatees that are Rural CDEs is, at a minimum, equal to the percentage of Applicants in the highly qualified pool that are Rural CDEs. If this objective is not achieved, the CDFI Fund will provide awards to additional Rural CDEs from the highly qualified pool, in descending order of their final rank score, until the appropriate percentage balance is achieved. In order to accommodate the additional Rural CDEs in the Allocatee pool within the available NMTC Allocation limitations, a formula reduction may be applied as uniformly as possible to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

The CDFI Fund will then determine whether the pool of Allocatees will, in the aggregate, invest at least 20 percent of their QLICIs (as measured by dollar amount) in Non-Metropolitan counties. The CDFI Fund will first apply the “minimum” percentage of QLICIs that Allocatees indicated in their applications would be targeted to Non-Metropolitan areas to the total NMTC Allocation award amount of each Allocatee (less whatever percentage the Allocatee indicated would be retained for non-QLICI activities), and total these figures for all Allocatees. If this aggregate total is greater than or equal to 20 percent of the QLICIs to be made by the Allocatees, then the pool is considered balanced and the CDFI Fund will proceed with the NMTC Allocation process. However, if the aggregate total is less than 20 percent of the QLICIs to be made by the Allocatees, the CDFI Fund will consider requiring any or all of the Allocatees to direct up to the “maximum” percentage of QLICIs that the Allocatees indicated would be targeted to Non-Metropolitan counties, taking into consideration their track record and ability to deploy dollars in Non-Metropolitan counties. If the CDFI Fund cannot meet the goal of 20 percent of QLICIs in Non-Metropolitan counties by requiring any or all Allocatees to commit up to the maximum percentage

of QLICIs that they indicated would be targeted to Non-Metropolitan counties, the CDFI Fund may add additional highly qualified Rural CDEs (in descending order of final rank score) to the Allocatee pool. In order to accommodate any additional Allocatees within the allocation limitations, a formula reduction will be applied as uniformly as possible, to the allocation amount for all Allocatees in the pool that have not committed to investing a minimum of 20 percent of their QLICIs in Non-Metropolitan counties.

*E. Right of rejection:* The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of a prior CDFI Fund award recipient, if such Applicant has failed to comply with the terms, conditions, and other requirements of the prior or existing assistance or award agreement(s) with the CDFI Fund or any other agreement under any CDFI Fund program.

The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of a prior CDFI Fund Allocatee, if such Applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the CDFI Fund.

The CDFI Fund reserves the right to reject any NMTC Allocation Application in the case of any Applicant, if an Affiliate of the Applicant has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement, Allocation Agreement, or any other agreement under any CDFI Fund program with the CDFI Fund.

The CDFI Fund reserves the right to reject or reduce the allocation award amount of any NMTC Allocation Application in the case of a prior Allocatee, if such Applicant has failed to use its prior NMTC Allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to, the proposed product offerings, business type, fees, markets served (*i.e.* service area), and notable relationships) set forth in the Allocation Application(s) related to such prior NMTC Allocation(s) or such Applicant has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC § 45D. The CDFI Fund also reserves the right to reject or reduce the allocation award amount of any NMTC Allocation Application in the case of an Affiliate of the Applicant that is a prior Allocatee and has failed to use its prior NMTC Allocation(s) in a manner that is generally consistent with the business strategy (including, but not limited to,

the proposed product offerings, business type, fees, markets served (*i.e.*, service area), and notable relationships) set forth in the Allocation Application(s) related to such prior NMTC Allocation(s) or has been found by the IRS to have engaged in a transaction or series of transactions designed to achieve a result that is inconsistent with the purposes of IRC § 45D.

The CDFI Fund reserves the right to reject an NMTC Allocation Application if information (including, but not limited to, administrative errors; submission of inaccurate information; or omission of information) comes to the attention of the CDFI Fund that adversely affects an Applicant’s eligibility for an award, adversely affects the CDFI Fund’s evaluation or scoring of an application, adversely affects the CDFI Fund’s prior determinations of CDE certification, or indicates fraud or mismanagement on the part of an Applicant, its Affiliate(s), or the Controlling Entity, if such fraud or mismanagement by the Affiliate(s) or Controlling Entity would hinder the Applicant’s ability to perform under the Allocation Agreement. If the CDFI Fund determines that any portion of the application is incorrect in any material respect, the CDFI Fund reserves the right, in its sole discretion, to reject the application.

The CDFI Fund reserves the right to reject any NMTC Allocation Application if additional information is obtained that, after further due diligence and in the discretion of the CDFI Fund, would hinder the Applicant’s ability to effectively perform under the Allocation Agreement. In the case of Applicants (or the Controlling Entity, or Affiliates) that are regulated or receive oversight by the Federal government or a state agency (or comparable entity), the CDFI Fund may request additional information from the Applicant regarding Assurances and Certifications or other information about the ability of the Applicant to effectively perform under the Allocation Agreement. The NMTC Allocation recommendation panel or selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal banking and other regulatory agencies. In the case of Applicants (or Affiliates of Applicants) that are also Small Business Investment Companies, Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the CDFI Fund reserves the right to consult with and take into consideration the views of the Small Business Administration. An Applicant that is or is affiliated with an insured depository institution will not



be awarded an NMTC Allocation if it has a composite rating of “5” on its most recent examination, performed in accordance with the Uniform Financial Institutions Rating System.

Furthermore, the CDFI Fund will not award an NMTC Allocation to an Applicant that is an insured depository institution or is an Affiliate of an insured depository institution, if during the time period beginning with the application deadline and ending with the execution of the CY 2022 Allocation Agreement; the Applicant received any of the following:

1. CRA assessment rating of below “Satisfactory” on its most recent examination;
2. A going concern opinion on its most recent audit; or
3. A Prompt Corrective Action directive from its regulator.

The CDFI Fund reserves the right to conduct additional due diligence on all Applicants, as determined reasonable and appropriate by the CDFI Fund, in its sole discretion, related to the Applicant, Affiliates, the Applicant’s Controlling Entity and the officers, directors, owners, partners and key employees of each. This includes the right to consult with the IRS if the Applicant (or the Controlling Entity, or Affiliates) has previously been awarded an NMTC Allocation.

*F. Allocation Announcement:* Each Applicant will be informed of the CDFI Fund’s award decision through an electronic notification whether selected for an allocation or not selected for an allocation, which may be for reasons of application incompleteness, ineligibility, or substantive issues. Eligible Applicants that are not selected for an allocation based on substantive issues will likely be given the opportunity to receive feedback on their applications. This feedback will be provided in a format and within a timeframe to be determined by the CDFI Fund, based on available resources.

The CDFI Fund further reserves the right to change its eligibility and evaluation criteria and procedures, if the CDFI Fund deems it appropriate. If said changes materially affect the CDFI Fund’s award decisions, the CDFI Fund will provide information regarding the changes through the CDFI Fund’s website.

The CDFI Fund reserves the right, in its sole discretion, to rescind an allocation made under this NOAA, should an Allocatee be identified as ineligible due to pending or delinquent debt to the Federal government in the Do Not Pay database.

There is no right to appeal the CDFI Fund’s NMTC Allocation decisions. The

CDFI Fund’s NMTC Allocation decisions are final.

## VI. Award Administration Information

### *A. Allocation Award Compliance:*

*1. Failure to meet reporting requirements:* If an Allocatee, or an Affiliate of an Allocatee, is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, allocation, or award agreement(s) or any other agreement under any CDFI Fund program as of the date the CDFI Fund provides notification of an NMTC Allocation award or thereafter, the CDFI Fund reserves the right, in its sole discretion, to reject the application, delay entering into an Allocation Agreement, and/or impose limitations on an Allocatee’s ability to issue QEIs to investors until said prior award recipient or Allocatee is current on the reporting requirements in the previously executed assistance, allocation, or award agreement(s) or any other agreement under any CDFI Fund program. Please note that the automated systems the CDFI Fund uses for receipt of reports submitted electronically typically acknowledges only a report’s receipt; such an acknowledgment does not warrant that the report received was complete and therefore met reporting requirements.

*2. Pending determination of noncompliance or default:* If an Allocatee is a prior award recipient or Allocatee under any CDFI Fund program and if: (i) it has demonstrated noncompliance with a previous assistance or award agreement or a default under an Allocation Agreement or any other agreement under any CDFI Fund program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee’s ability to issue QEIs to investors, during the time period given for the entity to cure the noncompliance or default and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. Further, if an Affiliate of an Allocatee is a prior CDFI Fund award recipient or Allocatee and if such entity: (i) has demonstrated noncompliance under a previous assistance or award agreement or default under a previous Allocation Agreement or any other agreement under any CDFI Fund

program; and (ii) the entity has been given a timeframe to cure the noncompliance or default, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee’s ability to issue QEIs to investors, during the time period given for the entity to cure the noncompliance or default and until such time as the CDFI Fund makes a final determination that the entity is in noncompliance or default, and determination of remedies, if applicable, in the sole determination of the CDFI Fund. If the prior award recipient, Allocatee or Affiliate of the Allocatee in question is unable to satisfactorily resolve the issues of noncompliance or default, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the award notification made under this NOAA.

*3. Determination of noncompliance or default status:* If prior to entering into an Allocation Agreement through this NOAA, the CDFI Fund has made a final determination that an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund program is (i) noncompliant with a previously executed assistance or award agreement, or is in default of a previously executed Allocation Agreement or any other agreement under any CDFI Fund program; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the noncompliance or default occurs during the time period beginning 12 months prior to the application deadline and ending with the execution of the CY 2022 Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee’s ability to issue QEIs to investors, or to terminate and rescind the NMTC Allocation made under this NOAA.

Furthermore, if prior to entering into an Allocation Agreement through this NOAA: (i) the CDFI Fund has made a final determination that an Affiliate of an Allocatee that is a prior CDFI Fund award recipient or Allocatee under any CDFI Fund programs is in noncompliance of a previously executed assistance or award agreement or in default of a previously executed Allocation Agreement(s) or any other agreement under any CDFI Fund program; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the default occurs during the time period beginning 12 months prior to the

application deadline and ending with the execution of the CY 2022 Allocation Agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Allocation Agreement and/or to impose limitations on the Allocatee's ability to issue QEIs to investors, or to terminate and rescind the NMTC Allocation made under this NOAA.

*B. Allocation Agreement:* Each Allocatee (including their Subsidiary Allocatees) must enter into an Allocation Agreement with the CDFI Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC Allocation which may include, but are not limited to, the following: (i) the amount of the awarded NMTC Allocation; (ii) the approved uses of the awarded NMTC Allocation (*e.g.*, loans to or equity investments in QALICBs, loans to or equity investments in other CDEs); (iii) the approved service area(s) in which the proceeds of QEIs may be used, including the dollar amount of QLICIs that must be invested in Non-Metropolitan counties; (iv) commitments to specific innovative investments discussed by the Allocatee in its Allocation Application; (v) the time period by which the Allocatee may obtain QEIs from investors; (vi) reporting requirements for the Allocatee; and (vii) a requirement to maintain certification as a CDE throughout the term of the Allocation Agreement. If an Allocatee represented in its NMTC Allocation Application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the Allocatee hold a majority equity interest, the Allocation Agreement will contain a covenant to that effect.

In addition to entering into an Allocation Agreement, each Allocatee must furnish to the CDFI Fund an opinion from its legal counsel or a similar certification, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an Allocatee (and its Subsidiary Allocatees, if any): (i) is duly formed and in good standing in the jurisdiction in which it was formed and the jurisdiction(s) in which it operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into

and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

If an Allocatee identifies Subsidiary Allocatees, the CDFI Fund reserves the right to require an Allocatee to provide supporting documentation evidencing that it Controls such entities prior to entering into an Allocation Agreement with the Allocatee and its Subsidiary Allocatees. The CDFI Fund reserves the right, in its sole discretion, to rescind its NMTC Allocation award if the Allocatee fails to return the Allocation Agreement, signed by the authorized representative of the Allocatee, and/or provide the CDFI Fund with any other requested documentation, including an approved legal opinion, within the deadlines set by the CDFI Fund.

*C. Fees:* The CDFI Fund reserves the right, in accordance with applicable Federal law and, if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC Allocations. Prior to imposing any such fee, the CDFI Fund will publish additional information concerning the nature and amount of the fee.

*D. Reporting:* The CDFI Fund will collect information, on at least an annual basis from all Allocatees and/or CDEs that are recipients of QLICIs, including such audited financial statements and opinions of counsel as the CDFI Fund deems necessary or desirable, in its sole discretion. The CDFI Fund will require the Allocatee to retain information as the CDFI Fund deems necessary or desirable and shall provide such information to the CDFI Fund when requested to monitor each Allocatee's compliance with the provisions of its Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The CDFI Fund may also provide such information to the IRS in a manner consistent with IRC § 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each QEI raised through its NMTC Allocation to make QLICIs. The Allocation Agreement shall further describe the Allocatee's reporting requirements.

The CDFI Fund reserves the right, in its sole discretion, to modify these reporting requirements if it determines it to be appropriate and necessary;

however, such reporting requirements will be modified only after due notice to Allocatees.

## VII. Agency Contacts

The CDFI Fund will provide programmatic and information technology support related to the Allocation Application Mondays through Fridays, between the hours of 9:00 a.m. and 5:00 p.m. ET through the last day to contact the CDFI Fund. The CDFI Fund will not respond to phone calls emails, or Service Requests in AMIS concerning the application that are received after the last day to contact the CDFI Fund. The CDFI Fund will respond to such phone calls, emails, or Service Requests in AMIS after the Allocation Application deadline in Table 1. Applications and other information regarding the CDFI Fund and its programs may be obtained from the CDFI Fund's website at <https://www.cdfifund.gov>. The CDFI Fund will post on its website responses to questions of general applicability regarding the NMTC Program.

*A. Information technology support:* Technical support can be obtained by calling (202) 653-0422 or by submitting a Service Request in AMIS. People who have visual or mobility impairments that prevent them from accessing the Low-Income Community maps using the CDFI Fund's website should call (202) 653-0422 for assistance. These are not toll free numbers.

*B. Programmatic support:* If you have any questions about the programmatic requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS; or by telephone at (202) 653-0421. These are not toll free numbers.

*C. Administrative support:* If you have any questions regarding the administrative requirements of this NOAA, contact the CDFI Fund's NMTC Program Manager by submitting a Service Request in AMIS, or by telephone at (202) 653-0421. These are not toll free numbers.

*D. IRS support:* For questions regarding the tax aspects of the NMTC Program, contact James Holmes and Dillon Taylor, Office of the Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 317-4137, or by facsimile at (855) 591-7867. These are not toll free numbers. Applicants wishing for a formal ruling request should see IRS Internal Revenue Bulletin 2020-1, issued January 4, 2020.

**VIII. Information Sessions**

In connection with this NOAA, the CDFI Fund may conduct one or more information sessions that will be produced in Washington, DC and broadcast over the internet via

webcasting as well as telephone conference calls. For further information on these upcoming information sessions, please visit the CDFI Fund's website at <https://www.cdfifund.gov>.

*Authority:* 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D-1.

**Jodie L. Harris,**

*Director, Community Development Financial Institutions Fund.*

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