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October 02, 2009

Mr. Matthew Josephs
NMTC Program Manager
Community Development Financial Institutions Fund
U.S. Department of Treasury
601 13th Street, NW
Washington, DC 20005

Joseph Pigg
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Re: Request for Comments on the New Markets Tax Credit Program application process; 74 Federal Register No. 147; pg 38482; August 3, 2009

Dear Mr. Josephs:

The American Bankers Association (“ABA”) is pleased to submit comments regarding the request for comments concerning the New Markets Tax Credit (“NMTC”) program allocation application. The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America’s economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry’s \$13.3 trillion in assets and employ over 2 million men and women.

The New Markets Tax Credit Allocation Application presents a number of obstacles to community bank participation in the NMTC Program. Community banks would potentially provide a vast source of capital and resources to low-income communities; however, the current application in many ways challenges their participation. To assist community banks in overcoming these challenges, the ABA has developed a NMTC program – and applied for an allocation under the NMTC program. If granted an allocation by the CDFI Fund, ABA’s program will provide NMTC economic benefits to participating ABA member banks and their borrowers.

This comment letter will address obstacles and challenges presented by the process. The ABA has identified these challenges and obstacles both as part of our research into developing a NMTC program to assist our members, and as a part of the application process undertaken by the ABA. They include the following:

Overall Comments

Application Complexity

The administrative burden of preparing the application is overwhelming for many community banks. Based upon information from experienced applicants, hundreds of hours are needed to complete a compelling, thorough, and competitive application. Many community banks have limited resources that often cannot be dedicated to meet the estimated time commitment, and they often cannot afford to enlist the assistance of outside NMTC consultants with expertise in completing applications, thereby rendering the community banks' applications less competitive. This was one of the primary reasons for ABA undertaking an effort to develop a NMTC program to assist our members.

Additionally, many community banks are not adequately educated about the NMTC program. The program, with its numerous requirements and annual Program changes (application questions, reporting requirements, allocation award availability), makes it difficult for many community banks, with limited resources and personnel, to acquire the information necessary to meaningfully participate in the NMTC Program.

Question Types

Many of the questions included in the application process are structured in a more open-ended fashion that favor applicants that have the prior NMTC experience or resources to retain consultants or legal advisors with program-specific knowledge.

Risk / Reward

The small percentage of winning applicants discourages community banks from making the initial upfront investment of staff time and other resources necessary to complete and file the NMTC application by the proscribed deadline. ABA hopes to alleviate this problem by providing a service to community banks in the form of the ABA NMTC program. Community banks which have the resources to apply on their own will likely continue to do so, but others, with more limited resources will benefit from ABA's expertise and staffing levels.

Question-Specific Comments

Question 30: Quantifying Impact

The Application currently collects outcome information on the applicant's historic community impacts and projected economic development impacts in Question 30. Addressing this question is challenging for new entrants because the specific

impacts listed are not typically tracked by community banks. To score well on Question 30, the Application states that it is best to provide examples of how previous transactions have achieved the listed impacts. Certainly community bank investments have achieved such impacts, and their investments will achieve them going forward; however, to quantify past transactions is challenging for smaller banks with limited staff and would further increase the application burden on limited resources. This question favors those entities that regularly track the data and have resources to contract economic impact studies.

Question 19: “Controlling Entity” issue:

The American Bankers Association submitted an Allocation Application designed to overcome obstacles to community bank participation in the NMTC Program. The ABA has committed its own resources and partnered with experienced NMTC consultants to overcome the application hurdles and implementation challenges of high transaction costs and NMTC program compliance management. Although the ABA will partner with community banks that have robust track records and experience in financing QLICI-type activities, the current application would not allow the ABA to include the track record of its partners because the partner community banks are not the “Controlling Entity” of the ABA. The ABA is governed by a consortium of banks, and the community banks will partner with ABA much in the same way a controlling entity would. The community banks have a primary role in identifying, evaluating, underwriting, and deploying capital. Because the community banks do not meet the definition of a Controlling Entity, their experience could not be included in the tables or the narrative for the ABA Application, which severely limited the ABA’s ability to demonstrate its effectual track record. This limitation presented a disadvantage in comparison to other NMTC Applicants that could include the track record of Controlling Entities.

Conclusion

The ABA views the NMTC Program as having significant benefits to banks and the communities they serve. Many of these benefits go unrealized due to the complexity of the application process, and the expertise needed to successfully complete the application process. To assist community banks in more readily accessing the NMTC, the ABA urges simplification of the process to allow more banks to be able to apply on their own, and additionally, changes to the process to make more readily demonstrable the past achievements and prospects for future accomplishment by applicants, including the ABA on behalf of its member banks.

We appreciate this opportunity to comment. Should you have questions, or wish to discuss any of these issues further, please do not hesitate to contact the undersigned at 202-663-5480 or JPigg@aba.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Pigg". The signature is fluid and cursive, with a large initial "J" and a stylized "P".

Joseph Pigg
Vice President and Sr. Counsel