May 5, 2009

Mr. Matt Josephs
Deputy Director of Policy and Programs
CDFI Fund
U.S. Department of the Treasury
601 13th Street, NW   Suite 200 South
Washington, DC 20005

Re: Response to Request for Comment on Capital Magnet Fund

Dear Mr. Josephs:

As a national nonprofit organization with a strong history of financing both affordable housing and community service facilities, we respectfully submit comments on the implementation of the Capital Magnet Fund (CMF) in response to your request for comments published in the Federal Register.

NCB Capital Impact is not a certified Community Development Financial Institution at this time, however we are a certified Community Development Entity under the New Markets Tax Credit Program. We have been the recipient of $229 million in New Market Tax Credit allocations and to-date have completed 25 transactions, totaling $204MM, deployed in 25 loans to 21 customers in urban and rural areas. These transactions have leveraged over $500MM in capital; have created/retained 3,542 permanent jobs and 2,157 temporary jobs, 1,015,000 square feet of space.

We are members of the Housing Partnership Network, Opportunity Finance Network and the CDFI Coalition. As such, we largely concur with the comments of the Rapoza Reznick group of affordable housing developers and the GSE Working Group, except as specifically noted herein. We participated in the Rapoza Reznick convening and we are a part of the GSE Working Group through our membership in HPN.

In the affordable housing arena, we have been among the leading proponents of Shared Equity Homeownership, a new and sensible approach to helping families become homeowners without taking on undue risk. Shared Equity Homeownership keeps homes affordable for generations of first-time homebuyers, through mechanisms such as land trusts, deed restrictions or limited equity cooperatives. With a grant from the Ford Foundation, we are leading a diverse coalition of over 30 organizations that have a common interest in urging that existing resources for new homeowners be used much more efficiently that they have been over the past decade. Our affordable housing work is primarily at the lower end of the homeownership market, rather than the rental market. Accordingly, we limit our comments to the subsidized homeownership market.

We believe that very little is accomplished by programs that make housing affordable for the first generation of new homeowners, but then are quickly lost to the affordable housing stock after the expiration of a 5 to 15 year affordability restriction. In order to improve communities for the long-term, it is essential that affordable housing remain affordable, while simultaneously building wealth. Shared equity models do just that.

Further, Shared Equity Homeownership is an important strategy to address the foreclosure crisis. In many places, the challenge is to appropriately manage vacant property and provide counseling to individuals at risk of foreclosure. The asset management strategies that have been pioneered by community land trusts are critical to achieving long-term neighborhood stabilization. By keeping public subsidy in the land to moderate price peaks and valleys, Shared Equity approaches are the best way to avoid the boom and bust cycle that has plagued our communities in recent decades.

We strongly urge the Fund to take a leadership role in efforts to address the foreclosure crisis by adopting policies for the CMF that will support the current best-thinking in the field. In addition to mixing economic development activities or community service facilities with affordable housing, as Congress has asked, we would also urge you to consider the following broad goals:

1. Design the program to provide a smaller number of grants of a size that will allow the CMF program to have an impact in the affordable housing sector.
2. Keep the program as flexible as possible in implementation consistent with preserving long-term affordability.
3. Promote mixed income communities along with mixed use developments.

With enactment of the CMF, Congress has asked the Fund to help address the long overdue need for affordable housing with compatible community and economic development. Widely acknowledged community development best practices include: Smart Growth, Inclusionary Zoning and Transit-Oriented Development. These policies are all based on the theory that healthy communities result from providing essential services nearby including child care, health care and grocery stores, as well as close-in affordable housing for service workers needed to staff essential services. We urge the Fund to implement CMF with these new models in mind.

Eligible Use of Funds

What definition should the CDFI Fund ("Fund") use to assess what constitutes "affordable housing?" What affordability thresholds or restrictions should the Fund require and for how long of a period should these be in place?

We believe the eligible uses are appropriately broad and that the Fund's guidance should maintain that breadth so that CMF will be a new tool to assist affordable housing developers to carry out their missions. We support interpreting "risk-sharing loans" to allow use of CMF funds as a source of guarantee or credit enhancement of project-level financing.

The need for flexibility notwithstanding, we urge the Fund to require that CMF funds ensure long-term if not permanent affordability. On this important point, we depart from both the Rapoza Reznick Group and the GSE Working Group. There is growing recognition that so many more people could be helped with our current affordable homeownership resources if only they were deployed more strategically, with long-term affordability restrictions.

Currently, each year federal housing programs provide more than $1 billion in homebuyer assistance to local governments, primarily through block grant programs. This significant annual investment helps only about 30,000 of the several million eligible families, *less than 3 tenths of one percent* of the potential beneficiaries. Generally, these funds are invested with only 5 to 15 year affordability requirements.

If the same funding were to be invested in permanently affordable Shared Equity Homeownership programs, each year we would add an additional 30,000 units to a growing national portfolio of affordable homes. Over a 40 year period, with the same annual investment (adjusted for inflation) we would build a stock of nearly 1.2 million permanently affordable homes. Together with the half million or more existing shared equity homeownership units, this portfolio would still represent only 1.4 percent of all housing. However, these units would meet the needs of nearly 20% of the 11 million potential beneficiaries - a high enough share that most households could benefit at some point in their lives. With the regular turnover in this stock of permanently affordable housing, approximately 285,000 units would become available for new buyers each year, rather than the current 30,000 units. CMF funding should be designed to advance this trend toward better use of existing resources by requiring that all units financed remain affordable for at least 50 years.

How should "primarily" be defined, as such term is used in Section 1339(c)(1)? What are the appropriate minimum levels of targeting that each project should be required to achieve?

On this point we concur with the Rapoza Reznick Group and depart from the GSE Working Group, we believe that "primarily" should be read broadly, not as a percentage of the grant funded amount, but as a purpose of the undertaking. We believe this to be essential to encouraging the kind of mixed-income development that everyone agrees should be our goal.

What restrictions (if any) should the CDFI Fund place on the percentage of award dollars that an awardee may apply towards economic development activities and/or community service facilities?

The more flexibility, the better. We do not believe that the statute requires nor should the Fund impose any restrictions on the percentage of award dollars applied to economic development and/or community service facilities. Further, affordable housing funding sources other than the CMF should fully count in determining the eligibility of economic development activities / community service facilities. The statute only requires that the economic development activities or community service facilities be in conjunction with affordable housing activities. It does not require that both be funded by the CMF. These affordable mixed use projects are difficult enough to do under the current patchwork quilt of programs and requirements. Implying this requirement and further increasing the complexity will only make these projects more expensive and harder to accomplish.

Eligible Grantees

Section 1339(e) of the Act states that Capital Magnet Fund grants may only be made to: (a) A CDFI that has been certified by the CDFI Fund; or (b) a nonprofit organization having as one of its principal purposes the development or management of affordable housing.

How should the CDFI Fund define "principal purpose" with respect to determining whether one of an entity's principal purposes is the development or management of affordable housing?

We believe this is among the most critical issues in this request for public comment, because if the Fund decides on a narrow approach, a number of high capacity organizations could be entirely precluded from participating in the CMF. This will ultimately mean that less capital will be attracted and the Capital Magnet Fund will be less likely to achieve its overall objective of attracting significant additional capital for the development, preservation, rehabilitation and purchase of affordable housing.

Subparagraph (b) gives the Fund significant latitude to encourage organizations to engage in this work by being permitted to participate in the CMF. We recommend that "principal purpose" be interpreted broadly to include any organization that includes the development or management of affordable housing in its bylaws, articles of incorporation or other controlling documents, or an activity that uses 20% or more of its time or resources.

Because lending is integral to the development process and is the activity that represents the end result of attracting capital, we recommend that lending, including first mortgage lending, acquisition and rehab lending and pre-development lending all be activities that can qualify an organization as having a primary purpose of developing affordable housing.

Applications

Are there other competitive award programs, Federal or otherwise, upon which the CDFI Fund should model the Capital Magnet Fund's application scoring and review protocols?

We concur in the comment of the Rapoza Reznick group that the best approach would be to combine the program goal approach of the New Markets Tax Credit (NMTC) Program with the business plan and product offerings approach of the CDFI application. We also recommend that the Fund adopt a pre-qualification process analogous to the process used to designate community development entities ("CDEs") for the NMTC Program. This approach works well. It allows potential applicants to know well in advance that they meet the minimum threshold and it saves the Fund staff time in reviewing applications that are not competitive.

Regardless of the model chosen, we recommend that the Fund be flexible so that you can adjust your performance evaluation criteria based on changes in market conditions, such as the tight credit market we have experienced over the last 18 months. Other Federal programs that we have participated in that were created before the recent credit crisis were not structured to take account of the difficulty of originating loans that come partially from private sources when the credit markets are extremely tight.

Finally, we recommend that the Fund publish an aggregate summary of the types of organizations that were awarded funds as well as the major themes that were reported by application reviewers.

Should the CDFI Fund divide applicants among different pools so that they compete only among organizations at the same capacity level (similar to the Core and SECA designations for the CDFI Program)?

We recommend against dividing applicants into pools and favor funding for the highest scoring and best qualified applicants.

Section 1339(j)(2)(D)(ii) requires "a prioritization of funding based upon: (1) The ability to use such funds to generate additional investments; (2) Affordable housing need (taking into account the distinct needs of different regions of the country); and (3) Ability to obligate amounts and undertake activities so funded in a timely manner." How should the CDFI Fund quantify each of the three priority factors ?

We concur with the Rapoza Reznick Group that the priority factors should be built into the application questions and scoring, rather than be the subject of distinct priority points. We depart from the GSE Working Group's suggestion that the highest priority should be given to serve the lowest income households. The Housing Trust Fund program, passed in tandem with CMF explicitly targets the lowest income households. We believe CMF is intended to compliment the Housing Trust Fund by putting more emphasis on creating mixed-income and mixed use communities.

Geographic Diversity

We recommend above that the Fund collect information through the application process and report on the activities funded with CMF financing, rather than imposing arbitrary standards like attempting to fund an organization in each state. The headquarters of an organization is not necessarily a proxy for where activity will take place. If the Fund's reports on CMF show areas that are not being served, the Fund could consider program changes at that point. In general, more highly qualified applicants should not be passed over to meet geographic diversity goals.

Leverage of Funds

Section 1339(h)(3) of the act states:

> *Each grant from the Capital Magnet Fund awarded under this section shall be reasonably expected to result in eligible housing, or economic and community development projects that support or sustain an affordable housing project funded by a grant under this section whose aggregate costs total at least 10 times the grant amount.*

What documentation should be required to demonstrate a leveraging ratio of 10:1 of "total aggregate costs"?

We agree with the Rapoza Reznick Group that the best ways to achieve the required leverage are using a CMF grant as a revolving pre-development loan fund or as a capital loan loss reserve at the grantee entity level, reducing or eliminating the need for loan loss reserves.

Is there a timing consideration as to when the CDFI Fund should release its award dollars?

While it is appropriate to require that other sources of financing are secure before the actual release of grant dollars, this should not be a prerequisite for a firm commitment by the Fund that grantees can rely on when securing other funding sources.

Commitment for Use Deadline

We urge the Fund not to adopt a requirement that funds be expended within two years. The important goal of timely use of funds must be balanced with the need to use CMF funds wisely as part of a well developed revitalization strategy. Requiring a binding agreement to commence utilizing the funds to support qualified activities should be sufficient to meet the "commitment for use" deadline.

Prohibited Uses

We think it would be appropriate to allow grantees to retain up to ten percent of grants to cover operating costs. We think it makes sense to allow grantees to cover a small portion of operating costs through this program, but there should be a limit. We can think of no other prohibited uses that should be applied.

Accountability of Recipients and Grantees

We concur with the Rapoza Reznick Group that to the extent possible, the Community Investment Impact System should be used to report data relating to elements of investments made with the support of CMF grants and impact data.

General Comments

We believe that careful and strategic implementation of the new CMF resource can be an important part of a post-foreclosure crisis approach to combining affordable housing with economic development and community service facilities. We are hopeful that the combination of our work to change the way affordable homeownership gets created in the United States with our strong track record in community service facilities lending will position us to be a strong partner with the Fund in making CMF successful.

We appreciate the opportunity to comment. If you have questions about our comments, please direct them to Jim Gray at jgray@ncbcapitalimpact.org, 703-647-2346.

Thank you.

Respectfully submitted,

Terry D. Simonette

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President