

PAUL E. KANJORSKI

11TH DISTRICT, PENNSYLVANIA

COMMITTEE ON FINANCIAL
SERVICES

Ranking Member

SUBCOMMITTEE ON CAPITAL MARKETS, INSURANCE,
AND GOVERNMENT SPONSORED ENTERPRISES

COMMITTEE ON GOVERNMENT REFORM

DEMOCRATIC WHIP AT LARGE



Congress of the United States
Washington, DC 20515-3811

July 2, 2001

Mr. Jeffrey C. Berg
Acting Director, Community Development Financial Institutions Fund
U.S. Department of the Treasury
601 13th Street, NW, Suite 200 South
Washington, DC 20005

Dear Mr. Berg:

This letter responds to your request for comment on the Guidelines on the New Markets Tax Credit (NMTC) Program recently issued by the Community Development Financial Institutions Fund (CDFI Fund).

As a senior Member of the House Financial Services Committee and the Ranking Democrat on the Subcommittee on Capital Markets, Insurance, and Government Sponsored Enterprises, I have a strong commitment to helping the underserved areas of our Nation obtain the private capital that is so vital to their economic development. In 1999 and 2000, I also traveled extensively with the President on his New Markets Initiative tours to the many places in the United States that have been left behind by the prosperity much of our country has enjoyed over the past eight years. During these visits, I saw firsthand that the lack of resources in too many communities has drained the hope out of too many citizens. We designed the NMTC to restore their hope and opportunity, and I worked to craft important elements of the bipartisan initiative and helped to shepherd it through the Congress. All of these experiences inform the strong views I hold concerning some of the application and allocation issues you have raised in your notice in the *Federal Register* on May 1, 2001.

In your first question you correctly note that the statute creating the NMTC Program specifies priorities in making allocations for two different types of situations. The first priority involves "an applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities." The second -- and, in my view, equally important -- priority is for an "applicant which intends to satisfy the Substantially All Test by making Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to the CDE hold a majority equity interest." In your notice, you have asked how the CDFI Fund should implement this policy, such as making awards to organizations "that meet one or BOTH (emphasis added) of these criteria before providing an allocation to any other applicant." You also ask if "more weight be given to one priority category over the other and should an applicant be allowed to receive preference points under both priority categories."

The preponderance of comments that you receive will undoubtedly be to give preference to the track records of the applicants. Some may also have good reasons for awarding preference points under both priorities. The intent of Members of Congress like myself who helped to draft

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those alternative priorities, however, was to recognize that they are *equally* important to this new resource reaching the communities that we hoped to help by passing this legislation. From my perspective, it would be a terrible failure if this program rewarded only those applicants that have an established relationship with the CDFI Fund and the communities that have previously benefited from CDFI and Bank Enterprise Act grants. The purpose of the NMTC Program was to provide a tax incentive for investing in places that are not on the beaten path as well as those that need and have an established community development infrastructure. Your guidelines should, therefore, give equal preference to both priorities.

In your *Federal Register* notice, you have also asked about which “indicators should the Fund assess when evaluating the community development impact of an applicant’s prior activities or the social underwriting criteria of its loan policies.” You additionally inquire about “on what basis should the Fund judge how ‘succsssfully’ capital or technical assistance has been provided.” Again, I would caution that many of the places most in need of investment are in rural areas and even in small and medium-sized towns where the expertise resides in local business and civic officials who are unfamiliar with the jargon of the CDFI industry and unfamiliar with your policies. It is therefore critical that your regulations be simple and written in plain language in order to break the cycle of “them that have gets” by allocating credits only to those places where an established community development infrastructure can produce sophisticated analyses.

Although not specifically mentioned in your *Federal Register* notice, as the CDFI Fund works to implement the NMTC Program, I hope that you also will coordinate with each of the regulators for depository institutions to ensure the appropriate treatment of any NMTC investment under the Community Reinvestment Act (CRA). As presently structured, banks receive credit toward their CRA performance only for those investments made in communities in which they maintain a facility. Many underserved communities, however, lack access to an institutional or vibrant banking system. Because they will not receive credit for investments made outside of their assessment areas, banks may therefore hesitate to participate in projects funded through the NMTC Program in these underserved and “underbanked” communities. That would be a mistake. All depository institutions should receive appropriate credit for their investments made in the NMTC Program, whether inside or outside of their CRA assessment area. After all, the NMTC Program will work to help low- and moderate-income communities, generally the same population that CRA works to help.

In closing, I recognize that these are difficult challenges to address and I applaud you for soliciting guidance on how to proceed in implementing the NMTC Program. I also look forward to working with you in the future to ensure that this innovative economic development initiative achieves its full potential.

Sincerely,

A handwritten signature in black ink that reads "Paul E. Kanjorski". The signature is written in a cursive style with a large initial "P".

Paul E. Kanjorski
Member of Congress