

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

#### 12 CFR Chapter XVIII

#### Bond Guarantee Program

**AGENCY:** Community Development Financial Institutions Fund, U.S. Department of Treasury.

**ACTION:** Request for public comment.

**SUMMARY:** This notice invites comments from the public on issues regarding the Community Development Financial Institutions (CDFI) Bond Guarantee Program created by the Small Business Jobs Act of 2010. All materials submitted will be available for public inspection and copying.

**DATES:** All comments and submissions must be received by August 15, 2011.

**ADDRESSES:** Comments may be sent by mail to: Jodie Harris, Policy Specialist, CDFI Fund, U.S. Department of the Treasury, 601 13th Street, NW., Suite 200 South, Washington, DC 20005; by e-mail to [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov); or by facsimile at (202) 622-7754. Please note this is not a toll free number.

**FOR FURTHER INFORMATION CONTACT:**

Information regarding the CDFI Fund and its programs may be downloaded from the CDFI Fund's Web site at <http://www.cdfifund.gov>.

**SUPPLEMENTARY INFORMATION:** The Community Development Financial Institutions Fund (CDFI Fund) was created for the purpose of promoting economic revitalization and community development through investment in and assistance to CDFIs. Its vision is to economically empower America's underserved and distressed communities through the provision of low-cost capital to certified CDFIs. The CDFI Fund was established by the Riegle Community Development Banking and Financial Institutions Act of 1994.

The CDFI Bond Guarantee Program (the program) was enacted through the

Small Business Jobs Act of 2010 (Pub. L. 111-240) on September 27, 2010. The CDFI Fund will serve as the program administrator and must administer the program in accordance with sections 1134 and 1703 of the Small Business Jobs Act, which amended the Community Development Banking and Financial Institutions Act of 1994, 12 U.S.C. 4701 *et seq.* (the Act) by adding a new section 114A.

Section 114A authorizes the Secretary of the Treasury (through the CDFI Fund) to guarantee the full amount of notes or bonds, including the principal, interest, and call premiums not to exceed 30 years, issued by CDFIs to finance loans for eligible community or economic development purposes. The bonds or notes will support CDFI lending and investment by providing a source of long-term, patient capital to CDFIs. In accordance with Federal credit policy, moreover, the Federal Financing Bank (FFB), a body corporate and instrumentality of the United States Government under the general supervision and direction of the Secretary of the Treasury, finances obligations that are 100% guaranteed by the United States, such as the bonds or notes to be issued by CDFIs under the program. Because the FFB's cost of funds is equivalent to the current Treasury rates for comparable maturities, the FFB can provide CDFIs the least expensive funds to generate loans and represents the most efficient way for CDFIs to finance 100% Federally guaranteed obligations.

The CDFI Fund is required by statute to promulgate program regulations by September 27, 2011 and to implement the program by September 27, 2012.

The CDFI Fund invites and encourages comments and suggestions germane to the mission, purpose, and implementation of the CDFI Bond Guarantee Program. The CDFI Fund is particularly interested in comments in the following areas:

#### 1. Definitions

(a) Section 114A(a) of the Act provides certain definitions applicable to the CDFI Bond Guarantee Program. In particular, Section 114A(a)(2) of the Act defines eligible community or economic development purpose as any purpose described in section 108(b) [12 U.S.C. 4707(b)] and includes the provision of community or economic development in low-income or underserved rural

areas. The CDFI Fund is interested in comments regarding all definitions found in the Act as they relate to the program, including the following:

(i) How should the term "low-income" be defined as such term is used in Section 114A(a)(2)?

(ii) How should the term "rural areas" be defined as such term is used in Section 114A(a)(2)? For example, is a rural community any census tract that is not located in a metropolitan statistical area (MSA)? Respondents should discuss how a particular definition would enable the program to target businesses and residents in rural areas, and discuss whether there are particular measures that should not be used because they may inadvertently disadvantage certain populations (*i.e.*, provide examples of particular households or communities that would not qualify under specific definitions).

(iii) How should the term "underserved" be defined and/or measured?

(iv) Should "eligible community or economic development purpose" be defined to allow a CDFI or its designated Qualified Issuer to only invest inside the CDFI Fund Target Market that it was certified to serve?

#### 2. Use of Funds

(a) The Act defines a loan as any credit instrument that is extended under the CDFI Bond Guarantee Program for any eligible community or economic development purpose. Section 114A(b) of the Act states that the Secretary of the Treasury (the Secretary) shall guarantee payments on bonds or notes issued by a qualified issuer if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions (CDFIs)

(1) For eligible community or economic development purposes; or

(2) To refinance loans or notes issued for such purposes.

The CDFI Fund invites and encourages comments and suggestions germane to the criteria and use of funds. The CDFI Fund is particularly interested in comments including the following:

(i) Should there be any limitations on the types of loans that can be financed or refinanced with the bond proceeds? Are there any uses of bond or note proceeds that should be excluded or deemed ineligible regardless of the fact

that the use was in a low-income or underserved rural area?

(ii) Should the capitalization of: (1) Revolving loan funds; (2) credit enhancement of investments made by CDFIs and/or others; or (3) loan loss reserves, debt service reserves, and/or sinking funds in support of a Federally guaranteed bond, be included as eligible purposes?

(iii) Should there be any limits on the percentage of loans or notes refinanced with the bond proceeds? If so, what should they be?

(iv) Should CDFIs be allowed to use bond proceeds to purchase loans from other CDFIs? If so, should the CDFI that sells the loans be required to invest a certain portion of the proceeds from the sale to support additional community development activities?

(v) Should the CDFI Fund place additional restrictions on the awardees' loan products, such as a cap on the interest rate, fees and/or late payment penalties or on the marketing and disclosure standards for the products? If so, what are the appropriate restrictions?

(b) Section 114A(c)(1) states that a capital distribution plan meets the requirements of the subsection if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than the cost of issuance fee) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the one-year period beginning on the issuance date of such guaranteed bonds or notes. The CDFI Fund welcomes comments regarding this provision, specifically regarding what penalties the CDFI Fund should impose if an issuer is out of compliance.

(c) Section 114A(c)(2) states that not more than 10 percent of the principal amount of guaranteed bonds or notes —, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount—may be held in a re-lending account and may be available for new eligible community or economic development purposes.

(i) How should the CDFI Fund define “re-lending” account as stated in Section 114A(c)(2)? How should it differ from the loans made under Section 114(c)(1)?

(ii) If the capitalization of revolving loan funds is deemed an allowable use of funds under Section 114A(a)(4), what activities would be eligible under the re-lending account?

(iii) If additional reserves are held, should they be permitted to be funded from the re-lending account?

(iv) Should a sinking fund, or any other reserve to allow for the payment

of debt service, be permitted to be funded from the re-lending account?

(d) Section 114A(d) states that each qualified issuer shall, during the term of a guarantee provided under the CDFI Bond Guarantee Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants, of an amount equal to three percent of the guaranteed amount outstanding on the subject notes and bonds.

(i) In the event that the CDFI Fund determines that there is a risk of loss to the government for which Congress has not provided an appropriation, what steps should the CDFI Fund take to compensate for this risk?

a. Should the interest rate on the bonds be increased?

b. Should a larger risk-share pool be required?

c. Should the CDFI Fund require restrictions, covenants and conditions (e.g., net asset ratio requirement, first loss requirements, first lien position; over-collateralization, replacement of troubled loans)?

(ii) How should the CDFI Fund assess and compensate for different levels of risk among diverse proposals without unduly restricting the flexible use of funds for a range of community development purposes? For example:

a. Should the CDFI Fund take into account the participation of a risk-sharing partner? What should be the parameters of any such risk-sharing?

b. Should the Fund take into account an independent, third-party credit rating from a major rating agency?

(iii) Are there restrictions, covenants, conditions or other measures the CDFI Fund should not impose? Please provide specific examples, if possible.

(iv) Should the qualified issuer be allowed to set aside the three percent from the bond proceeds or should these funds be separate from the proceeds?

### 3. Guarantee Provisions

(a) Section 114A(a)(3) defines a guarantee as a written agreement between the Secretary and a qualified issuer (or trustee) pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible CDFI. The CDFI Fund invites and encourages comments and suggestions relating to the guarantee provisions, especially:

(i) How should the CDFI Fund define and determine “verifiable losses of principal, interest, and call premium”?

(ii) Should the CDFI Fund permit a call upon the guarantee at any point prior to the issuer liquidating the available assets? If so, under what condition should a call on the guarantee be permitted?

(b) Section 114A(e)(1) indicates that the Treasury guarantee shall be for the full amount of a bond or note, including the amount of principal, interest, and call premiums not to exceed 30 years. The Treasury may not guarantee any amount less than \$100 million per issuance.

(i) Should the CDFI Fund set specific guidelines or prohibitions for the structure of the bond (e.g., callable, convertible, zero-coupon)?

(ii) Should bonds that are used to fund certain asset classes be required to have specific terms or conditions? Should riskier asset classes or borrowers require additional enhancements?

(c) Section 114A(e)(2) states limitations on the guarantees.

(1) The Secretary shall issue not more than 10 guarantees in any calendar year under the program.

(2) The Secretary may not guarantee any amount under the program equal to less than \$100 million but the total of all such guarantees in any fiscal year may not exceed \$1 billion.

(i) Can qualified issuers apply for multiple issuances? Should there be a limit per qualified issuer? If so, what should that limit be?

### 4. Eligible Entities

(a) Section 114A(a)(1) defines an eligible entity as a CDFI (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or that has been granted by a qualified issuer, a loan under the program. The CDFI Fund welcomes comments on issues relating to eligible entities, particularly with respect to the following questions:

(i) Should the CDFI Fund require one qualified issuer (or appointed trustee) for all bonds and notes issued under the program?

(ii) Should the CDFI Fund permit an entity not yet certified as a CDFI to apply for CDFI certification simultaneous with submission of a capital distribution plan?

(iii) Should the CDFI Fund allow all existing CDFIs to apply, or should there be minimum eligibility criteria?

(iv) The Act states that a qualified issuer should have “appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes.” How should

the CDFI Fund determine that a qualified issuer meets these requirements?

(v) What penalties should be imposed in the event that a CDFI participating in the program ceases to be a certified CDFI? What remedies and cure periods should the CDFI Fund allow in the event of a lapse in CDFI certification?

(b) Section 114A(a)(5) defines a master servicer as an entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

(i) Should the CDFI Fund require one servicer for all bonds and notes issued under the program?

(ii) Should the CDFI Fund require the master servicer and servicers to have a track record of providing similar services? How should the CDFI Fund evaluate the capabilities of prospective servicers and master servicers?

(iii) Should the CDFI Fund pre-qualify servicers and make those groups known to CDFIs wishing to submit a capital distribution plan for consideration?

(iv) Should a CDFI issuer be allowed to serve as its own servicer?

(v) Should the master servicer be eligible to serve as a program administrator or servicer for a qualified issuer? If so, how should potential conflicts of interest be managed?

(c) Section 114(a)(8) defines qualified issuers as a CDFI (or any entity designated to issue notes or bonds on behalf of such CDFI) that meets certain qualifications: (1) Have appropriate expertise, (2) have an acceptable capital distribution plan, and (3) be able to certify that the bond proceeds will be used for community development.

(i) How should a CDFI demonstrate its expertise?

(ii) Are there any institutions that should be prohibited from serving as qualified issuers?

(iii) Should the CDFI Fund establish minimum criteria for serving as a qualified issuer?

(iv) Should the CDFI Fund set a minimum asset size for CDFI participation as a qualified issuer?

(v) Should the CDFI Fund require the issuer to have a minimum net capital (real equity capital) and require a set amount of net capital be held for the term of the bond? If so, what is a reasonable level to require?

(vi) Should qualified issuers be required to obtain an independent, third-party credit rating from a major rating agency?

## 5. Capital Distribution Plan

(a) Section 114A(a)(8)(B)(ii)(II) states that a qualified issuer shall provide to

the Secretary: (aa) an acceptable statement of the proposed sources and uses of the funds and (bb) a capital distribution plan that meets the requirements of subsection (c)(1). The CDFI Fund seeks comments relating to the capital distribution plan requirement, specifically:

(i) What elements should be required in an acceptable statement of proposed sources and uses of the funds? How should the CDFI Fund measure acceptability?

(ii) What elements should be required in a capital distribution plan? Are there examples of such plans, Federal or otherwise, upon which the CDFI Fund should model the CDFI Bond Guarantee Program's capital distribution plan requirements and application materials?

(iii) Should the CDFI Fund require specific intended uses of all the bond proceeds in the capital distribution plan or should the qualified issuers just be required to demonstrate an intended pipeline of underlying assets?

(iv) Should the CDFI Fund set minimum underwriting criteria for borrowers? Should applicants be required to demonstrate satisfaction of those criteria in the capital distribution plan?

## 6. Accountability of Qualified Issuers

(a) The CDFI Fund welcomes comments on how to monitor the use of proceeds and financial performance of qualified issuers, particularly with respect to the following questions:

(i) What tests should the CDFI Fund use to evaluate if 90 percent of bond proceeds have been invested in qualified loans? Should reports be required from the qualified issuer more frequently than on an annual basis?

(ii) What types of tests should the CDFI Fund use to evaluate satisfaction of the low-income or rural requirement set forth in Section 114A(a)(2)?

(iii) What support, if any, would applicants and awardees like to receive from the CDFI Fund after having issued a bond?

(iv) What specific industry standards for impact measures (businesses financed, units of affordable housing developed, etc.) should the CDFI Fund adopt for evaluating and monitoring loans financed or refinanced with proceeds of the guaranteed notes or bonds?

(v) Should achievement of some standards or outcome measures be mandatory?

(vi) Are the approval criteria for qualified issuers as listed in Section 114A(a)(8)(B) adequate? If not, what else should be included?

## 7. Prohibited Uses

(a) Section 114A(b)(5) provides certain prohibitions on use of funds including, "political activities, lobbying, outreach, counseling services, or travel expenses." The CDFI Fund encourages comments and suggestions germane to prohibited uses established in the Act, specifically as to whether there are other prohibited uses that the CDFI Fund should include.

## 8. Servicing of Transactions

(a) Section 114A(f) states that, in general, to maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified program administrators, bond servicers, and a master servicer. This section further outlines the duties of the program administrator, servicers, and the master servicer. Comments regarding the servicing of transactions are welcome, specifically:

(i) The Act lists certain duties of a program administrator. Should there be other requirements?

(ii) The duties of a program administrator suggest that the CDFI Fund will serve as the program administrator for all issuances. Should the CDFI Fund require that each qualified issuer have a designated program administrator as suggested in section 114A(a)(7)?

(iii) If so, should the servicer be eligible to serve as a program administrator for a qualified issuer?

(iv) Who should be responsible for resolving troubled loans?

(v) On what basis should servicers be compensated?

(vi) Are there any duties not listed that should be included in sections 114A(f)(2) through 114A(f)(4)? Are there any prohibitions or limitations that should be applied?

## 9. General Compliance

The CDFI Fund welcomes comments on general compliance issues related to monitoring the guarantee portfolio, particularly with respect to the following questions:

(i) What types of compliance measures should be required by the CDFI Fund? Should the CDFI Fund mandate specific reports to be collected and reviewed by the servicer and ultimately the master servicer? If so, please provide examples.

(ii) The Act states that "repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into compliance with the 90 percent requirement of paragraph (1)."

How should the CDFI Fund enforce this requirement?

(iii) What penalties should the CDFI Fund impose if a qualified issuer is deemed noncompliant?

(iv) The Act provides that the qualified issuer pay a fee of 10 basis points annually. What penalties should be imposed for failure to comply?

## 10. General Comments

The CDFI Fund is also interested in receiving any general comments and suggestions regarding the structure of the CDFI Bond Guarantee Program that are not addressed above.

**Authority:** Pub. L. 111–240.

Dated: June 23, 2011.

**Donna J. Gambrell,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2011–16682 Filed 6–30–11; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA–2011–0087; Airspace Docket No. 11–ASO–12]

#### Proposed Amendment of Class D Airspace; Eglin AFB, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend Class D Airspace in the Eglin Air Force Base (AFB), FL airspace area. The Destin Non-Directional Beacon (NDB) has been decommissioned and new Standard Instrument Approaches have been developed for Destin-Fort Walton Beach Airport that would enhance the safety and management of Instrument Flight Rules (IFR) operations at the airport.

**DATES:** Comments must be received on or before August 15, 2011. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA, Order 7400.9 and publication of conforming amendments.

**ADDRESSES:** Send comments on this rule to: U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001; Telephone: 1–800–647–5527; Fax: 202–493–2251. You

must identify the Docket Number FAA–2011–0087; Airspace Docket No. 11–ASO–12, at the beginning of your comments. You may also submit and review received comments through the Internet at <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to comment on this rule by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2011–0087; Airspace Docket No. 11–ASO–12) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at <http://www.regulations.gov>.

Annotators wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: “Comments to Docket No. FAA–2011–0087; Airspace Docket No. 11–ASO–12.” The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA’s Web page at [http://www.faa.gov/airports\\_airtraffic/air\\_traffic/publications/airspace\\_amendments/](http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/).

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, room 210, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA’s Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking distribution System, which describes the application procedure.

##### The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class D airspace in the Eglin AFB, FL area. The Destin NDB has been decommissioned, and the NDB approach cancelled. New standard instrument approach procedures have been developed for Destin-Fort Walton Beach Airport. The existing Class D airspace extending upward from the surface would be modified for the safety and management of IFR operations.

Class D airspace designations are published in Paragraph 5000 of FAA order 7400.9U, dated August 18, 2010, and effective September 15, 2010, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in