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Dated: June 3, 2013.

**Bruce A. Sharp,**

*Bureau Clearance Officer.*

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## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

#### Notice of Funding Availability (NOFA) Inviting Applications for the FY 2013 Funding Round of the Bank Enterprise Award (BEA) Program

*Announcement Type:* Announcement of funding opportunity.

Catalog Of Federal Domestic Assistance (CFDA) Number: 21.021.

**DATES:** Applications for the FY 2013 funding round of the BEA Program must be received by July 12, 2013. Applications must meet all eligibility and other requirements and deadlines, as applicable, set forth in this NOFA. Applications received after July 12, 2013 will be rejected.

*Executive Summary:* This NOFA is issued in connection with the FY 2013 funding round of the BEA Program. The BEA Program is administered by the Community Development Financial Institutions (CDFI) Fund, a wholly owned government corporation within the Department of the Treasury. The BEA Program encourages Insured Depository Institutions to increase their levels of loans, investments, services, and technical assistance within Distressed Communities, and financial assistance to CDFIs through equity investments, equity-like loans, grants, stock purchases, loans, deposits, and other forms of financial and technical assistance, during a specified period.

#### I. Funding Opportunity Description

*A. Baseline Period and Assessment Period dates:* A BEA Program Award is based on an Applicant's increases in Qualified Activities from the Baseline Period to the Assessment Period. For the FY 2013 funding round, the Baseline Period is calendar year 2011 (January 1, 2011 through December 31, 2011), and the Assessment Period is calendar year 2012 (January 1, 2012 through December 31, 2012). If Qualified Activities in a specific category results in a decrease in activity from the Baseline Period to the Assessment Period, there is no need to report the activity.

*B. Program regulations:* The regulations governing the BEA Program

can be found at 12 CFR part 1806 (the Interim Rule) and provide guidance on evaluation criteria and other requirements of the BEA Program. The CDFI Fund encourages Applicants to review the Interim Rule. Detailed BEA Program requirements are also found in the Application related to this NOFA. Each capitalized term in this NOFA is more fully defined either in the Interim Rule or the Application.

*C. Qualified Activities:* Qualified Activities are defined in the Interim Rule to include CDFI Related Activities, Distressed Community Financing Activities, and Service Activities (12 CFR 1806.103). CDFI Related Activities (12 CFR 1806.103(q)) include Equity Investments, Equity-Like Loans, and CDFI Support Activities). Distressed Community Financing Activities (12 CFR 1806.103(u)) include Affordable Housing Loans, Affordable Housing Development Loans and related Project Investments; Education Loans; Commercial Real Estate Loans and related Project Investments; Home Improvement Loans; and Small Business Loans and related Project Investments. Service Activities (12 CFR 1806.103(nn)) include Deposit Liabilities, Financial Services, Community Services, Targeted Financial Services, and Targeted Retail Savings/Investment Products.

When calculating BEA Program Award amounts, the CDFI Fund will only consider the amount of Qualified Activity that has been fully disbursed, or in the case of partially disbursed Qualified Activities will only consider the amount that an Applicant reasonably expects to disburse for a Qualified Activity within 12 months from the end of the Assessment Period. Subject to the requirements outlined in Section VII. B.1. of this NOFA, in the case of Commercial Real Estate Loans and related Project Investments, the total principal amount of the transaction must be \$10 million or less to be considered a Qualified Activity. Notwithstanding the foregoing, the CDFI Fund, in its sole discretion, may consider transactions with a total principal value of over \$10 million, subject to review.

Activities funded with prior BEA Award dollars, or funded to satisfy requirements of a BEA Award Agreement from a prior Award shall not constitute a Qualified Activity for the purposes of calculating or receiving an Award.

*D. Designation of Distressed Community:* Each CDFI Partner that is the recipient of CDFI Support Activities from an Applicant must designate a Distressed Community. CDFI Partners

that receive Equity Investments are not required to designate Distressed Communities. Applicants applying for a BEA Program Award for carrying out Distressed Community Financing Activities or Service Activities must verify that addresses of both Baseline and Assessment Period activities are in Distressed Communities when completing their Application. Please note that a Distressed Community as defined by the BEA Program is not necessarily the same as an Investment Area as defined by the CDFI Program or a Low-Income Community as defined by the New Markets Tax Credit (NMTC) Program.

*1. Definition of Distressed Community:* A Distressed Community must meet certain minimum geographic area and distress requirements, which are defined in the Interim Rule at 12 CFR 1806.103(t) and more fully described in 12 CFR 1806.200. Applicants should use CIMS to determine whether a Baseline Period activity or Assessment Period activity is located in a qualifying Distressed Community.

*2. Designation of Distressed Community:* A CDFI Partner (as appropriate) shall designate an area as a Distressed Community by:

(a) selecting Geographic Units which individually meet the minimum area eligibility requirements; or

(b) selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (1) of this section provided that no Geographic Unit selected by the Applicant within the area has a poverty rate of less than 20 percent.

A CDFI Partner designates a Distressed Community by submitting a map of the Distressed Community as described in the BEA Program Application. CDFI Partners must use CIMS to designate Distressed Communities. CIMS is accessed through *myCDFIFund* and contains step-by-step instructions on how to create and save the aforementioned map of the Distressed Community. *myCDFIFund* is an electronic interface that is accessed through the CDFI Fund's Web site ([www.cdfifund.gov](http://www.cdfifund.gov)). Instructions for registering with *myCDFIFund* are available on the CDFI Fund's Web site. If you have any questions or problems with registering, please contact the CDFI Fund IT HelpDesk by telephone at (202) 653-0300, or by email to [ITHelpDesk@cdfi.treas.gov](mailto:ITHelpDesk@cdfi.treas.gov).

*3. Persistent Poverty Counties:* In FY 2012, Congress mandated that at least ten percent of the CDFI Fund's appropriations be directed to counties

that meet the criteria for "Persistent Poverty" designation. This Persistent Poverty Counties (PPC) requirement continues under the current Continuing Resolution for FY 2013 appropriations. PPCs are defined as any county that has had 20 percent or more of its population living in poverty over the past 30 years, as measured by the 1990 and 2000 decennial censuses, and the 2010 American Community Survey census. The specific counties that qualify as meeting the criteria for "persistent poverty" can be found at:

[www.cdfifund.gov/persistentpoverty](http://www.cdfifund.gov/persistentpoverty). Applicants that apply under this NOFA will be required to indicate the minimum and maximum percentage of the BEA Award that the Applicant will commit to investing in PPCs.

## II. Award Information

A. *CDFI Applicants*: No CDFI Applicant may receive a FY 2013 Bank Enterprise Award if it has: (1) An application pending for assistance under the FY 2013 round of the Community Development Financial Institutions Program (CDFI Program); (2) Been awarded assistance from the CDFI Fund under the CDFI Program within the 12-month period prior to the date the CDFI Fund selects the Applicant to receive a FY 2013 Bank Enterprise Award; or (3) Ever received assistance under the CDFI Program for the same activities for which it is seeking a FY 2013 Bank Enterprise Award. Please note that Applicants may apply for both a CDFI Program Award and a BEA Program Award in FY 2013; however, receiving a FY 2013 CDFI Program award removes an Applicant from eligibility for a FY 2013 BEA Program Award.

B. *Award amounts*: The CDFI Fund expects that it may award approximately \$17.1 million in FY 2013 BEA Program Awards, in appropriated funds under this NOFA. The CDFI Fund reserves the right to award in excess of said funds under this NOFA, provided that the appropriated funds are available. The CDFI Fund reserves the right to impose a maximum Award amount; however under no circumstances will an Award be higher than \$2 million for any Awardee. The CDFI Fund also reserves the right to impose a minimum Award amount due to availability of funds. Further, the CDFI Fund reserves the right to fund, in whole or in part, any, all, or none of the Applications submitted in response to this NOFA. The CDFI Fund reserves the right to reallocate funds from the amount that is anticipated to be available under this NOFA to other CDFI Fund programs, or reallocate

remaining funds to a future BEA Program funding round, if the CDFI Fund determines that the number of Awards made under this NOFA is fewer than projected.

When calculating Award amounts, the CDFI Fund will only consider the amount of the Qualified Activity that has been fully disbursed, or in the case of partially disbursed Qualified Activities will only consider the amount that an Applicant reasonably expects to disburse for a Qualified Activity within 12 months from the end of the Assessment Period.

C. *Types of Awards*: BEA Program Awards are made in the form of grants.

D. *Notice of Award and Award Agreement*: Each Awardee under this NOFA must sign a Notice of Award and an Award Agreement prior to disbursement by the CDFI Fund of the Award proceeds. The Notice of Award and the Award Agreement contains the terms and conditions of the Award. For further information, see Section VIII of this NOFA.

## III. Eligibility

A. *Eligible Applicants*: Eligible Applicants for the BEA Program must be Insured Depository Institutions, as defined in Section 3 of the Federal Deposit Insurance Act 12 U.S.C. 1813(c)(2). An Applicant must be FDIC-insured as of December 31, 2012 for the FY 2013 funding round to be eligible for consideration for a BEA Program Award under this NOFA. The depository institution holding company of an Insured Depository Institution may not apply on behalf of an Insured Depository Institution. Applications received from depository institution holding companies will be disqualified. For the purposes of this NOFA, an eligible CDFI Applicant is an Insured Depository Institution that was certified as a CDFI as of the end of the applicable Assessment Period and maintains its status as a certified CDFI at the time BEA Program Awards are announced under this NOFA. Please note that all CDFIs originally or most recently certified prior to February 1, 2010 must have applied to the CDFI Fund for recertification no later than 11:59 p.m. EDT April 8, 2013 and be fully recertified by the time that BEA Program Awards are announced under this NOFA. Additional information regarding the mandatory CDFI recertification requirements can be found at: [www.cdfifund.gov/cdficert](http://www.cdfifund.gov/cdficert)

The CDFI Fund will conduct a debarment check and will not consider an Application submitted by an Applicant, if the Applicant is delinquent on any federal debt.

1. *Prior Awardees*: Applicants must be aware that success in a prior round of any of the CDFI Fund's programs is not indicative of success under this NOFA. For purposes of this section, the CDFI Fund will consider an Affiliate to be any entity that Controls (as such term is defined in paragraph (f) below) the Applicant, is Controlled by the Applicant or is under common Control with the Applicant (as determined by the CDFI Fund) and any entity otherwise identified as an affiliate by the Applicant in its Application under this NOFA. Prior BEA Program Awardees and prior Awardees of other CDFI Fund programs are eligible to apply under this NOFA, except as follows:

(a) *Failure to meet reporting requirements*: The CDFI Fund will not consider an Application submitted by an Applicant if the Applicant or its Affiliate is a prior CDFI Fund awardee or allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award, or allocation agreement(s), as of the Application deadline(s) stated in this NOFA. Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete and therefore met reporting requirements.

(b) *Pending resolution of noncompliance*: If an Applicant that is a prior awardee or allocatee under any CDFI Fund program: (i) Has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award or allocation agreement, and (ii) the CDFI Fund has yet to make a final determination as to whether the entity is in default of its previous assistance, award, or allocation agreement, the CDFI Fund will consider the Applicant's Application under this NOFA pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance.

(c) *Default status*: The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program if, as of the applicable Application deadline of this NOFA, the CDFI Fund has made a final determination that such Applicant is in default of a previously executed assistance, award or allocation agreement(s). Such entities will be ineligible to apply for an Award pursuant to this NOFA so long as the Applicant's prior award or allocation

remains in default status or such other time period as specified by the CDFI Fund in writing.

(d) *Undisbursed funds*: For the purposes of this section, the term “undisbursed funds” is defined as: (i) In the case of prior BEA Program Award(s), any balance of Award funds equal to or greater than five percent of the total prior BEA Program Award(s) that remains undisbursed more than three years after the end of the calendar year in which the CDFI Fund signed an Award Agreement with the Awardee, or (ii) in the case of prior CDFI Program or other CDFI Fund program award(s), any balance of award funds equal to or greater than five percent of the total prior award(s) that remains undisbursed more than two years after the end of the calendar year in which the CDFI Fund signed an assistance agreement with the awardee.

The term “undisbursed funds” does not include (i) tax credit allocation authority allocated through the New Markets Tax Credit Program; (ii) any award funds for which the CDFI Fund received a full and complete disbursement request from the awardee as of the Application deadline of this NOFA; or (iii) any award funds for an award that has been terminated, expired, rescinded, or deobligated by the CDFI Fund.

The CDFI Fund will not consider an Application submitted by an Applicant that is a prior CDFI Fund awardee under any CDFI Fund program if the Applicant has a balance of undisbursed funds under said prior award(s), as of the Application deadline of this NOFA. Further, an entity is not eligible to apply for an Award pursuant to this NOFA if an Affiliate of the Applicant is a prior CDFI Fund awardee under any CDFI Fund program, and has a balance of undisbursed funds under said prior Award(s), as of the Application deadline of this NOFA. In the case where an Affiliate of the Applicant is a prior CDFI Fund awardee under any CDFI Fund program, and has a balance of undisbursed funds under said prior award(s), as of the Application deadline of this NOFA, the CDFI Fund will include the combined awards of the Applicant and such Affiliates when calculating the amount of undisbursed funds.

(e) *Control*: For purposes of this NOFA, the term “Control” means: (1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting securities as defined in 12 CFR 1805.104(mm) of any legal entity, directly or indirectly or acting through one or more other persons; (2) control in any manner over

the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of any legal entity; or (3) the power to exercise, directly or indirectly, a controlling influence over the management, credit, or investment decisions, or policies of any legal entity.

(f) *Contact the CDFI Fund*: Accordingly, Applicants that are prior awardees and/or allocatees under any CDFI Fund program are advised to: (i) Comply with requirements specified in assistance, award and/or allocation agreement(s), and (ii) contact the CDFI Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balance of a prior award(s). An Applicant that is unsure about the disbursement status of any prior award should contact the CDFI Fund by sending an email to [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov). All outstanding reports and compliance questions should be directed to Certification, Compliance Monitoring, and Evaluation support by email at [ccme@cdfi.treas.gov](mailto:ccme@cdfi.treas.gov) or by telephone at (202) 653-0421. The CDFI Fund will respond to Applicants' reporting, compliance, or disbursement questions between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOFA through July 10, 2013. The CDFI Fund will not respond to Applicants' reporting, compliance, or disbursement telephone calls or email inquiries that are received after 5:00 p.m. ET on July 10, 2013 until after the Application deadline. The CDFI Fund will respond to technical issues related to myCDFIFund Accounts through 5:00 p.m. ET on July 12, 2013.

2. *Cost sharing and matching fund requirements*: Not applicable.

#### IV. Application and Submission Information

A. *Application Content Requirements*: Detailed Application content requirements are found in the Application related to this NOFA. Applicants must submit all materials described in and required by the Application by the applicable deadlines. Additional information, including instructions relating to the submission of the Application via Grants.gov, the FY 2013 BEA Signature Page via myCDFIFund, and supporting documentation, is set forth in further detail in the Application.

Please note that, pursuant to OMB guidance (68 FR 38402), each Applicant must provide, as part of its Application submission, a Dun and Bradstreet Data Universal Numbering System (DUNS) number. In addition, each Application

must include a valid and current Employer Identification Number (EIN), with a letter or other documentation from the Internal Revenue Service (IRS) confirming the EIN. Applicants should allow sufficient time for the IRS and/or Dun and Bradstreet to respond to inquiries and/or requests for identification numbers. EINs and DUNS numbers must match the information in the Applicant's System for Award Management (SAM) account. An active SAM account is required to submit Applications via Grants.gov. Neither the SAM account, EIN, nor the DUNS number can be that of the depository institution holding company of the Applicant. An Application that does not include an EIN or DUNS number is incomplete and cannot be transmitted to the CDFI Fund. The preceding sentences do not limit the CDFI Fund's ability to contact an Applicant for the purpose of confirming or clarifying information regarding a DUNS number or EIN. Once an Application is submitted, the Applicant will not be allowed to change any element of the Application.

As set forth in further detail in the Application, any Qualified Activity missing the required documentation will be disqualified. Applicants will not be allowed to submit missing documentation for Qualified Activities after the Application deadline.

B. *Form of Application Submission*: Applicants must submit Applications under this NOFA via Grants.gov with certain required documentation via paper according to the instructions in the Application. Applications sent by facsimile or by email will not be accepted, except in circumstances that the CDFI Fund, in its sole discretion, deems acceptable. In order to submit an Application via Grants.gov, Applicants must complete a multi-step registration process. This includes registration at [www.sam.gov](http://www.sam.gov). Applicants are advised to make sure their SAM account is active and valid well in advance of submitting an Application via Grants.gov and to allow ample time to complete the entire registration and submission process prior to the application deadline of July 12, 2013.

myCDFIFund Accounts: All Applicants and CDFI Partners must complete a FY 2013 BEA Signature Page in myCDFIFund. All Applicants and CDFI Partners must register User and Organization accounts in myCDFIFund, the CDFI Fund's Internet-based interface, by the applicable Application deadline. Failure to register and complete a FY 2013 BEA Signature Page in myCDFIFund could result in the CDFI Fund being unable to accept the Application. As myCDFIFund is the

CDFI Fund's primary means of communication with Applicants and awardees, institutions must make sure that they update their contact information in their myCDFIFund accounts. For more information on myCDFIFund, please see the "Frequently Asked Questions" link posted at <https://www.cdfifund.gov/myCDFI/Help/Help.asp>.

Qualified Activity documentation and other attachments as specified in the applicable BEA Program Application must be sent to: Bureau of the Public Debt Warehouse & Operations Center Dock 1; 257 Bosley Industrial Park Drive; Parkersburg, WV 26101; ATTN: CDFI Fund—BEA Program Awards Management, A3–H. The telephone number to be used in conjunction with overnight mailings to this address is (304) 480–8071. The CDFI Fund will not accept Applications in its office in Washington, DC. Applications and attachments received in the CDFI Fund's Washington, DC, office will be rejected.

**C. Application Deadlines:** The deadline for receipt of Applications via Grants.gov for the FY 2013 funding round is 11:59 p.m. ET on July 12, 2013. The deadline for the submission of the FY 2013 BEA Signature Page via myCDFIFund for the FY 2013 funding round is 5:00 p.m. ET on July 12, 2013. The deadline for receipt of paper documentation at the Bureau of Public Debt address specified above is 5:00 p.m. ET, July 16, 2013. Applications and other required documents and other attachments received after the deadline on the applicable date will be rejected. Please note that the document submission deadlines in this NOFA and the funding Application are strictly enforced. The CDFI Fund will not grant exceptions or waivers for late delivery of documents including, but not limited to, late delivery that is caused by third parties such as the United States Postal Service, couriers, or overnight delivery services.

**D. Paperwork Reduction Act:** 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 BEA Program funding Application has been assigned the following control number: 1559–0005.

## V. Intergovernmental Review

Not Applicable.

## VI. Funding Restrictions

Not Applicable.

## VII. Application Review Information

**A. CDFI Related Activities:** CDFI Related Activities include Equity Investments, Equity-Like Loans, and CDFI Support Activities provided to eligible CDFI Partners. In addition to regulatory requirements, this NOFA provides the following:

1. **Eligible CDFI Partner:** CDFI Partner is defined as a CDFI that has been provided assistance in the form of CDFI Related Activities by an Applicant (12 CFR 1806.103(p)). For the purposes of this NOFA, an eligible CDFI Partner is an entity that has been certified as a CDFI as of the end of the applicable Assessment Period and is Integrally Involved in a Distressed Community.

2. **Integrally Involved:** Integrally Involved is defined as having provided: (i) At least 10 percent of financial transactions or dollars transacted (e.g., loans or equity investments as defined in 12 CFR 1805.104(t)), or 10 percent of Development Service activities (as defined in 12 CFR 1805.104(s)), in the Distressed Community identified by the Applicant or the CDFI Partner, as applicable, in each of the three calendar years preceding the date of the applicable NOFA, (ii) having transacted at least 25 percent of financial transactions (e.g., loans or equity investments) in said Distressed Community in at least one of the three calendar years preceding the date of the applicable NOFA, or (iii) demonstrated that it has attained at least 10 percent of market share for a particular product in said Distressed Community (such as at least 10 percent of home mortgages originated in said Distressed Community) in at least one of the three calendar years preceding the date of the applicable NOFA.

3. **Limitations on eligible Qualified Activities provided to certain CDFI Partners:** A CDFI Applicant cannot receive credit for any financial assistance or Qualified Activities provided to a CDFI Partner that is also an FDIC-insured depository institution or depository institution holding company.

4. **Certificates of Deposit:** Section 1806.103(r) of the Interim Rule states that any certificate of deposit (CD) placed by an Applicant or its Subsidiary in a CDFI Partner that is a bank, thrift, or credit union must be: (i) Uninsured and committed for at least three years; or (ii) insured, committed for a term of at least three years, and provided at an interest rate that is materially below market rates, in the determination of the CDFI Fund.

(a) For purposes of this NOFA, "materially below market interest rate" is defined as an annual percentage rate that does not exceed 100 percent of yields on Treasury securities at constant maturity as interpolated by Treasury from the daily yield curve and available on the Treasury Web site at [www.treas.gov/offices/domestic-finance/debt-management/interest-rate/yield.shtml](http://www.treas.gov/offices/domestic-finance/debt-management/interest-rate/yield.shtml). For example, for a three-year CD, Applicants should use the three-year rate U.S. Government securities, Treasury Yield Curve Rate posted for that business day. The Treasury updates the Web site daily at approximately 5:30 p.m. ET. CDs placed prior to that time may use the rate posted for the previous business day. The annual percentage rate on a CD should be compounded quarterly, semi-annually, or annually. If a variable interest rate is used, the CD must also have an interest rate that is materially below the market interest rate over the life of the CD, in the determination of the CDFI Fund. (b) For purposes of this NOFA, a deposit placed by an Applicant directly with a CDFI Partner that participates in a deposit network or service may be treated as eligible under this NOFA if it otherwise meets the criteria for deposits in 1806.103(r) and the CDFI Partner retains the full amount of the initial deposit or an amount equivalent to the full amount of the initial deposit through a deposit network exchange transaction.

5. **Equity Investment:** An Equity Investment means financial assistance in the form of a grant, a stock purchase, a purchase of a partnership interest, a purchase of a limited liability company membership interest, or any other investment deemed to be an Equity Investment by the CDFI Fund provided by an Applicant or its Subsidiary to a CDFI Partner that meets the criteria set forth in the applicable NOFA.

6. **Equity-Like Loan:** An Equity-Like Loan is a loan provided by an Applicant or its Subsidiary to a CDFI Partner, and made on such terms that it has characteristics of an Equity Investment, as such characteristics may be specified by the CDFI Fund (12 CFR 1806.103(z)). For purposes of this NOFA, an Equity-Like Loan must meet the following characteristics:

(a) At the end of the initial term, the loan must have a definite rolling maturity date that is automatically extended on an annual basis if the CDFI borrower continues to be financially sound and carry out a community development mission;

(b) Periodic payments of interest and/or principal may only be made out of the CDFI borrower's available cash flow after satisfying all other obligations;

(c) Failure to pay principal or interest (except at maturity) will not automatically result in a default of the loan agreement; and

(d) The loan must be subordinated to all other debt except for other Equity-Like Loans.

Notwithstanding the foregoing, the CDFI Fund reserves the right to determine, in its sole discretion and on a case-by-case basis, whether an instrument meets the above-stated characteristics of an Equity-Like Loan.

7. *CDFI Support Activity:* A CDFI Support Activity is defined as assistance provided by an Applicant or its Subsidiary to a CDFI Partner, in the form of a loan, technical assistance, or deposits.

8. *CDFI Program Matching Funds:* Equity Investments, Equity-Like Loans, and CDFI Support Activities (except technical assistance) provided by a BEA Applicant to a CDFI and used by the CDFI for matching funds under the CDFI Program are eligible as a Qualified Activity under the CDFI Related Activity category.

B. *Distressed Community Financing Activities and Service Activities:* Distressed Community Financing Activities include Affordable Housing Loans, Affordable Housing Development Loans and related Project Investments, Education Loans, Commercial Real Estate Loans and related Project Investments, Home Improvement Loans, and Small Business Loans and related Project Investments (12 CFR 1806.103(u)). In addition to the regulatory requirements, this NOFA provides the following additional requirements:

1. *Commercial Real Estate Loans and related Project Investments:* For purposes of this NOFA, eligible Commercial Real Estate Loans (12 CFR 1806.103(l)) and related Project Investments (12 CFR 1806.103(ll)) are generally limited to transactions with a total principal value of \$10 million or less. Notwithstanding the foregoing, the CDFI Fund, in its sole discretion, may consider transactions with a total principal value of over \$10 million, subject to review. For such transactions, Applicants must provide a separate narrative, or other information, to demonstrate that the proposed project offers, or significantly enhances the quality of, a facility or service not currently provided to the Distressed Community.

2. *Reporting certain Financial Services:* The CDFI Fund will value the administrative cost of providing certain Financial Services using the following per unit values:

(a) \$100.00 per account for Targeted Financial Services;

(b) \$50.00 per account for checking and savings accounts that do not meet the definition of Targeted Financial Services;

(c) \$5.00 per check cashing transaction;

(d) \$25,000 per new ATM installed at a location in a Distressed Community;

(e) \$2,500 per ATM operated at a location in a Distressed Community;

(f) \$250,000 per new retail bank branch office opened in a Distressed Community; and

(g) In the case of Applicants engaging in Financial Services activities not described above, the CDFI Fund will determine the unit value of such services.

(i) When reporting the opening of a new retail bank branch office, the Applicant must certify that it has not operated a retail branch in the same Distressed Community in which the new retail branch office is being opened in the past three years, and that such new branch will remain in operation for at least the next five years.

(ii) Financial Service Activities must be provided by the Applicant to Low- and Moderate-Income Residents. An Applicant may determine the number of Low- and Moderate-Income individuals who are recipients of Financial Services by either: (i) Collecting income data on its Financial Services customers, or (ii) certifying that the Applicant reasonably believes that such customers are Low- and Moderate-Income individuals and providing a brief analytical narrative with information describing how the Applicant made this determination. Citations must be provided for external sources. In addition, if external sources are referenced in the narrative, the Applicant must explain how it reached the conclusion that the cited references are directly related to the Low- and Moderate-Income residents to whom it is claiming to have provided the Financial Services.

(iii) When reporting changes in the dollar amount of deposit accounts, only calculate the net change in the total dollar amount of eligible Deposit Liabilities between the Baseline Period and the Assessment Period. Do not report each individual deposit. If the net change between the Baseline Period and Assessment Period is a negative dollar amount, then a negative dollar amount may be recorded for Deposit Liabilities only. Instructions for determining the net change is available in the Supplemental Guidance to the FY 2013 BEA Program Application.

C. *Priority Factors:* Priority Factors are the numeric values assigned to

individual types of activity within: (i) The Distressed Community Financing, and (ii) Services categories of Qualified Activities. For the purposes of this NOFA, Priority Factors will be based on the Applicant's asset size as of the end of the Assessment Period (December 31, 2012) as reported by the Applicant in the Application. Asset size classes (i.e., small banks, intermediate-small banks, and large banks) will correspond to the Community Reinvestment Act (CRA) asset size classes set by the three Federal bank regulatory agencies and that were effective as of the end of the Assessment Period. The Priority Factor works by multiplying the change in a Qualified Activity by the assigned Priority Factor to achieve a "weighted value." This weighted value of the change would be multiplied by the applicable Award percentage to yield the Award amount for that particular activity. For purposes of this NOFA, the CDFI Fund is establishing Priority Factors based on Applicant asset size to be applied to all activity within the Distressed Community Financing Activities and Service Activities categories only, as follows:

CRA Asset size classification	Priority factor
Small banks (assets of less than \$296 million as of 12/31/2012) .....	5.0
Intermediate—small banks (assets of at least \$296 million but less than \$1.186 billion as of 12/31/2012) .....	3.0
Large banks (assets of \$1.186 billion or greater as of 12/31/2012) .....	1.0

D. *Certain Limitations on Qualified Activities:*

1. *Low-Income Housing Tax Credits.* Financial assistance provided by an Applicant for which the Applicant receives benefits through Low-Income Housing Tax Credits, authorized pursuant to Section 42 of the Internal Revenue Code, as amended (26 U.S.C. 42), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the purposes of calculating or receiving a Bank Enterprise Award.

2. *New Markets Tax Credits.* Financial assistance provided by an Applicant for which the Applicant receives benefits as an investor in a Community Development Entity that has received an allocation of New Markets Tax Credits, authorized pursuant to Section 45D of the Internal Revenue Code, as amended (26 U.S.C. 45D), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, for the

purposes of calculating or receiving a Bank Enterprise Award. Leverage loans used in New Markets Tax Credit structured transactions that meet the requirements outlined in the applicable NOFA are considered Distressed Community Financing Activities.

3. **Loan Renewals and Refinances.** Financial assistance provided by an Applicant shall not constitute a Qualified Activity, as defined in this part, for the purposes of calculating or receiving a Bank Enterprise Award if such financial assistance consists of a loan to a borrower that has matured and is then renewed by the Applicant, or consists of a loan to a borrower that is retired or restructured using the proceeds of a new commitment by the Applicant. Payoff of a separate third party obligation will only be considered a Qualified Activity if the payoff of a transaction is part of the sale of property or business to an unaffiliated party to the borrower. Applicants should include a narrative statement to describe any such transactions. Otherwise the transaction will be disqualified.

4. **Prior BEA Awards.** Qualified Activities funded with prior funding round Bank Enterprise Award dollars or funded to satisfy requirements of the BEA Program Award Agreement shall not constitute a Qualified Activity for the purposes of calculating or receiving a Bank Enterprise Award.

5. **Prior CDFI Program Awards.** No CDFI Applicant may receive a Bank Enterprise Award for activities funded by a CDFI Program Award.

*E. Award percentages, Award amounts, selection process:* The Interim Rule describes the process for selecting Applicants to receive Bank Enterprise Awards and determining Award amounts. Applicants will calculate and request an estimated Award amount in accordance with a multi-step procedure that is outlined in the Interim Rule (at 12 CFR 1806.202). As outlined in the Interim Rule at 12 CFR § 1806.203, the CDFI Fund will determine actual Award amounts based on the availability of funds, increases in Qualified Activities from the Baseline Period to the Assessment Period, and each Applicant's priority ranking. In calculating the increase in Qualified Activities, the CDFI Fund will determine the eligibility of each transaction for which an Applicant has applied for a Bank Enterprise Award. In some cases, the actual Award amount calculated by the CDFI Fund may not be the same as the estimated Award amount requested by the Applicant.

The CDFI Fund may take into consideration the views of the appropriate Federal bank regulatory

agency, as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) and may choose not to approve a BEA Program Award to an Insured Depository Institution Applicant if the appropriate Federal bank regulatory agency indicates safety and soundness concerns about the Applicant. Furthermore, the CDFI Fund may choose not to approve a BEA Program Award for the following reasons if at the time of application: (i) The Applicant and/or its Affiliates most recent overall CRA assessment rating is below "Satisfactory", or (ii) the Applicant received a going concern opinion on its most recent audit. Applicants may be contacted to provide additional information related to Federal bank regulatory or CRA information.

Should the CDFI Fund determine, upon analysis of the final BEA Awardee pool, that it has not achieved the 10 percent persistent poverty requirement mandated by Congress, this information will affect the ranking of Applications and/or the size of an Award. In this case, to ensure that this Congressional mandate is achieved, Award preference will be given to Applicants that commit to targeting a minimum of 10 percent of Bank Enterprise Award dollars to be invested in BEA Qualified Activities in persistent poverty counties (PPCs). If an institution is selected to receive a Bank Enterprise Award through the FY 2013 funding round, the stated commitment to serving PPCs will be incorporated in the institution's Award agreement and performance goals. Awardees may be held to the minimum and up to the maximum PPC commitment articulated in its Application. No applicant, however, will be disqualified from consideration if it does not make a PPC commitment in its Bank Enterprise Award Program Application.

In the CDFI Related Activities category (except for an Equity Investment or Equity-Like Loan), for CDFI Applicants, such estimated Award amount will be equal to 18 percent of the increase in Qualified Activity for the category. If an Applicant is not a CDFI Applicant, such estimated Award amount will be equal to 6 percent of the increase in Qualified Activity for the category. Notwithstanding the foregoing, for a CDFI Applicant and for an Applicant that is not a CDFI Applicant, the Award percentage applicable to an Equity Investment, Equity-Like Loan, or Grant in a CDFI shall be 15 percent of the increase in Qualified Activity for the category. For the Distressed Community Financing Activities and Service Activities categories, for a CDFI Applicant, such estimated Award

amount will be equal to 9 percent of the weighted value of the increase in Qualified Activity for the category. If an Applicant is not a CDFI Applicant, such estimated Award amount will be equal to 3 percent of the weighted value of the increase in Qualified Activity for the category.

If the amount of funds available during the funding round is insufficient for all estimated Award amounts, Awardees will be selected based on the process described in the Interim Rule at 12 CFR § 1806.203(b). This process gives funding priority to Applicants that undertake activities in the following order: (i) CDFI Related Activities, (ii) Distressed Community Financing Activities, and (iii) Service Activities, as described in the Interim Rule at 12 CFR § 1806.203(c).

Within each category, CDFI Applicants will be ranked first according to the ratio of the actual Award amount calculated by the CDFI Fund for the category to the total assets of the Applicant, followed by Applicants that are not CDFI Applicants according to the ratio of the actual Award amount calculated by the CDFI Fund for the category to the total assets of the Applicant.

The CDFI Fund, in its sole discretion: (i) May adjust the estimated Award amount that an Applicant may receive, (ii) may establish a maximum amount that may be awarded to an Applicant, and (iii) reserves the right to limit the amount of an Award to any Applicant if the CDFI Fund deems it appropriate.

For purposes of calculating Award disbursement amounts, the CDFI Fund will treat Qualified Activities with a total principal amount less than or equal to \$250,000 as fully disbursed. For all other Qualified Activities, Awardees will have 12 months from the end of the Assessment Period to make disbursements and 18 months from the end of the Assessment Period to submit to the CDFI Fund disbursement requests for the corresponding portion of their Awards, after which the CDFI Fund will rescind and deobligate any outstanding Award balance and said outstanding Award balance will no longer be available to the Awardee.

The CDFI Fund reserves the right to contact the Applicant to confirm or clarify information. If contacted, the Applicant must respond within the CDFI Fund's time parameters or run the risk of being rejected.

The CDFI Fund reserves the right to change its eligibility and evaluation criteria and procedures. If those changes materially affect the CDFI Fund's Award decisions, the CDFI Fund will provide

information regarding the changes through the CDFI Fund's Web site.

There is no right to appeal the CDFI Fund's Award decisions. The CDFI Fund's Award decisions are final. The CDFI Fund does not provide debriefings and will not discuss the specifics of an Applicant's BEA Program Application or provide reasons why an Applicant did not receive a BEA Program Award. The CDFI Fund will only respond to general questions regarding the FY 2013 Application and Award decision process until 30 days after the award announcement date.

#### **VIII. Award Administration Information**

*A. Notice of Award:* The CDFI Fund will signify its selection of an Applicant as an Awardee by delivering a Notice of Award and Award Agreement to the Applicant. The Notice of Award and Award Agreement will contain the general terms and conditions underlying the CDFI Fund's provision of an Award. The Applicant must execute the Notice of Award and Award Agreement and return it to the CDFI Fund. Each Awardee must also ensure that complete and accurate banking information is reflected in its System for Award Management (SAM) account on [www.sam.gov](http://www.sam.gov).

The CDFI Fund reserves the right, in its sole discretion, to rescind the Award, the Notice of Award, and the Award Agreement if the Awardee fails to return the Notice of Award and Award Agreement signed by the Authorized Representative of the Awardee or any other requested documentation by the deadline set by the CDFI Fund.

By executing a Notice of Award and Award Agreement, the Awardee agrees that, if information (including administrative errors) comes to the attention of the CDFI Fund prior to the Effective Date of the Award Agreement that either adversely affects the Awardee's eligibility for an Award, or adversely affects the CDFI Fund's evaluation of the Awardee's Application, or indicates fraud or mismanagement on the part of the Awardee, the CDFI Fund may, in its discretion and without advance notice to the Awardee, terminate the Notice of Award and Award Agreement or take other actions as it deems appropriate.

*1. Failure to meet reporting requirements:* If an Applicant, or its Affiliate, is a prior CDFI Fund awardee or allocatee under any CDFI Fund program and is not current on the reporting requirements set forth in the previously executed assistance, award, or allocation agreement(s), as of the date of the Notice of Award, the CDFI Fund

reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds, until said prior awardee or allocatee is current on the reporting requirements in the previously executed assistance, award, or allocation agreement(s). Please note that automated systems employed by the CDFI Fund for receipt of reports submitted electronically typically acknowledge only a report's receipt; such acknowledgment does not warrant that the report received was complete and therefore met reporting requirements. If said prior awardee or allocatee is unable to meet this requirement within the timeframe set by the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the Award made under this NOFA.

*2. Pending resolution of noncompliance:* If an Applicant is a prior CDFI Fund awardee or allocatee under any CDFI Fund program and if: (i) It has submitted complete and timely reports to the CDFI Fund that demonstrate noncompliance with a previous assistance, award, or allocation agreement, and (ii) the CDFI Fund has yet to make a final determination regarding whether or not the entity is in default of its previous assistance, award, or allocation agreement, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds, pending full resolution, in the sole determination of the CDFI Fund, of the noncompliance. If said prior awardee or allocatee is unable to meet this requirement, in the sole determination of the CDFI Fund, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the Award made under this NOFA.

*3. Default status:* If, at any time prior to entering into an Award Agreement under this NOFA, the CDFI Fund has made a final determination that an Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program is in default of a previously executed assistance, award, or allocation agreement(s) and has provided written notification of such determination to the Applicant, the CDFI Fund reserves the right, in its sole discretion, to delay entering into an Award Agreement and/or to delay making a disbursement of Award proceeds until said prior awardee or allocatee has submitted a complete and timely report demonstrating full compliance with said Agreement within

a timeframe set by the CDFI Fund. If said prior awardee or allocatee is unable to meet this requirement, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Notice of Award and the Award made under this NOFA.

*4. Termination in default:* If prior to entering into an Award Agreement under this NOFA, (i) the CDFI Fund has made a final determination that an Applicant that is a prior CDFI Fund awardee or allocatee under any CDFI Fund program whose award or allocation terminated in default of such prior agreement; (ii) the CDFI Fund has provided written notification of such determination to such organization; and (iii) the anticipated date for entering into the Award Agreement under this NOFA is within a period of time specified in such notification throughout which any new award, allocation, or assistance is prohibited, the CDFI Fund reserves the right, in its sole discretion, to terminate and rescind the Award Agreement and the award made under this NOFA.

*B. Award Agreement:* After the CDFI Fund selects an Awardee, unless an exception detailed in this NOFA applies, the CDFI Fund and the Awardee will enter into an Award Agreement. The Award Agreement will set forth certain required terms and conditions of the Award, which will include, but not be limited to: (i) The amount of the Award, (ii) the type of the Award, (iii) the approved uses of the Award, (iv) performance goals and measures, and (v) reporting requirements for all Awardees. Award Agreements under this NOFA generally will have one-year performance periods. The Award Agreement shall provide that an Awardee shall: (i) Carry out its Qualified Activities in accordance with applicable law, the approved Application, and all other applicable requirements; (ii) not receive any monies until the CDFI Fund has determined that the Awardee has fulfilled all applicable requirements; and (iii) use an amount equivalent to the BEA Award amount for BEA Qualified Activities.

*C. Administrative and National Policy Requirements:* Not applicable.

*D. Reporting and Accounting:*

*1. Awardees Without Persistent Poverty County Commitments:* The CDFI Fund will require each Awardee without persistent poverty commitments that receives an Award over \$50,000 through this NOFA to account for the use of the Award. This will require Awardees to establish administrative and accounting controls, subject to applicable OMB Circulars.

The CDFI Fund will collect information from each such Awardee on its use of the Award at least once following the Award and more often if deemed appropriate by the CDFI Fund in its sole discretion. The CDFI Fund will provide guidance to Awardees outlining the format and content of the information to be provided, outlining and describing how the funds were used.

2. Awardees With Persistent Poverty County Commitments: The CDFI Fund will require each Awardee with persistent poverty county commitments, regardless of Award size, to report data for Award funds deployed in persistent poverty counties and maintain proper supporting documentation and records which are subject to review by the CDFI Fund's Certification, Compliance Monitoring, and Evaluation unit.

## IX. Agency Contacts

The CDFI Fund will respond to questions and provide support concerning this NOFA and the funding Application between the hours of 9:00 a.m. and 5:00 p.m. ET, starting on the date of the publication of this NOFA through July 10, 2013 for the FY 2013 funding round. The CDFI Fund will not respond to Applicants' reporting, compliance, or disbursement telephone calls or email inquiries that are received after 5:00 p.m. ET on July 10, 2013 until after the Application deadline. The CDFI Fund will respond to technical issues related to myCDFIFund accounts through 5:00 p.m. ET on July 12, 2013.

Applications and other information regarding the CDFI Fund and its programs may be downloaded and printed from the CDFI Fund's Web site at [www.cdfifund.gov](http://www.cdfifund.gov). The CDFI Fund will post responses to questions of general applicability regarding the BEA Program on its Web site.

**A. Information Technology Support:** Technical support can be obtained by calling (202) 653-0300 or by email to [ithelpdesk@cdfi.treas.gov](mailto:ithelpdesk@cdfi.treas.gov). People who have visual or mobility impairments that prevent them from creating a Distressed Community map using the CDFI Fund's Web site should call (202) 653-0300 for assistance. These are not toll free numbers.

**B. Application Support:** If you have any questions about the programmatic or administrative requirements of this NOFA, contact the CDFI Fund's BEA Program office by email at [cdfihelp@cdfi.treas.gov](mailto:cdfihelp@cdfi.treas.gov), by telephone at (202) 653-0421, by facsimile at (202) 508-0089, or by mail at CDFI Fund, 1500 Pennsylvania Avenue NW., Washington, DC 20220. The number provided is not toll free.

### C. Certification, Compliance Monitoring and Evaluation (CCME)

**Support:** If you have any questions regarding the compliance requirements of this NOFA, including questions regarding performance on prior Awards, contact the CDFI Fund's CCME Unit by email at [ccme@cdfi.treas.gov](mailto:ccme@cdfi.treas.gov) or by telephone at (202) 653-0423. The number provided is not toll free.

**D. Communication with the CDFI Fund:** The CDFI Fund will use its myCDFIFund Internet interface to communicate with Applicants and Awardees under this NOFA. Awardees must use myCDFIFund to submit required reports. The CDFI Fund will notify Awardees by email using the addresses maintained in each Awardee's myCDFIFund account. Therefore, an Awardee and any Subsidiaries, signatories, and Affiliates must maintain accurate contact information (including contact person and authorized representative, email addresses, fax numbers, phone numbers, and office addresses) in their myCDFIFund account(s). For more information about myCDFIFund, please see the Help documents posted at <https://www.cdfifund.gov/myCDFI/Help/Help.asp>.

**Authority:** 12 U.S.C. 1834a, 4703, 4703 note, 4713; 12 CFR part 1806.

Dated: May 31, 2013.

**Donna J. Gambrell,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 2013-13417 Filed 6-5-13; 8:45 am]

**BILLING CODE 4810-70-P**

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

#### Notice of Finding That Liberty Reserve S.A. Is a Financial Institution of Primary Money Laundering Concern

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice of finding.

**SUMMARY:** This document provides notice that, pursuant to the authority contained in 31 U.S.C. 5318A, the Director of FinCEN found on May 28, 2013, that Liberty Reserve S.A. (Liberty Reserve) is a financial institution operating outside the United States that is of primary money laundering concern.

**DATES:** The finding referred to in this notice was effective as of May 28, 2013.

**FOR FURTHER INFORMATION CONTACT:** FinCEN, (800) 949-2732.

**SUPPLEMENTARY INFORMATION:**

## I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the USA PATRIOT Act), Public Law 107-56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951-1959, and 31 U.S.C. 5311-5314, 5316-5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the Secretary) to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (Section 311), codified at 31 U.S.C. 5318A, grants the Secretary the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transaction, or type of account is of "primary money laundering concern," to require domestic financial institutions and financial agencies to take certain "special measures" to address the primary money laundering concern. The Secretary has delegated this authority under Section 311 to the Director of FinCEN.

On May 28, 2013, the Director of FinCEN found that Liberty Reserve S.A. (Liberty Reserve) is a financial institution operating outside the United States that is of primary money laundering concern. The Director considered the factors discussed below in making this determination.

#### II. The Extent to Which Liberty Reserve Has Been Used To Facilitate or Promote Money Laundering in or Through Costa Rica and Internationally

Liberty Reserve is a Web-based money transfer system, or "virtual currency." It is a financial institution currently registered in Costa Rica and has been operating since 2001. Liberty Reserve's system is structured so as to facilitate money laundering and other criminal activity, while making any legitimate use economically unreasonable. The Department of Justice is taking criminal action against Liberty Reserve and related individuals.

Liberty Reserve uses a system of internal accounts and a network of virtual currency exchangers to move funds. Operating under the domain name [www.libertyreserve.com](http://www.libertyreserve.com), it