CDBA Community Development Bankers Association
1801 K Street NW ▪ Suite M-100 ▪ Washington, DC 20006 ▪ (202) 689-8935 ▪ (202) 689-8938 fax

CDFI Bank Capital Purchase Program

On Wednesday, October 21, 2009, the White House and Treasury announced an initiative to support small business lending in underserved rural and urban communities by providing low-cost capital to regulated community development financial institutions (CDFIs). The members of the Community Development Bankers Association (CDBA) applaud the Obama Administration for its actions. CDBA is the national trade association for the CDFI certified bank and thrift sector. Our members serve low and moderate income urban and rural communities and include minority owned banks. In the spirit of working with the Administration to outline the details of the program, we respectfully submit the following set of recommendations.

<u>Eligibility</u>:

The Obama Administration has established that banks that are certified CDFIs are eligible to participate in the new CDFI Bank Capital Purchase Program (CDFI-BCPP). CDFI Banks have a primary mission of serving low-income communities or underserved populations and have documented that over 60% of their lending is targeted to such markets. Participation in CDFI-BCPP will be subject to approval by each institution's respective federal banking regulator.

To further clarify the eligibility standards, CDBA makes the following recommendations:

(1) As a means of reducing administrative burden and recognizing the mission and proven success of CDFI banks, current CDFI certification should be sufficient documentation of targeting to establish program eligibility.

(2) CDFI banks that are already approved for participation in or received monies from the original Capital Purchase Program (CPP) should be able to elect to redeem all or a portion of their CPP funds in exchange for CDFI-BCPP assistance. They should not be required to be re-reviewed by their primary bank regulatory agency for participation in the new program.

(3) CDFI banks should be eligible to participate in CDFI-BCPP regardless of decisions on prior CPP requests.

(4) Viability for participation should be based on a two-pronged test, rather than on CAMELS ratings. Proposed viability test:

To protect U.S. taxpayers, in order to participate in the CDFI-BCPP program we recommendation that all banks have ratios of Tier 1 capital to total assets of at least 4% and to risk weighted assets of at least 8%. An applicant will need to further demonstrate that they will have a ratio of Tier 1 capital to total assets of at least 5% and to risk weighted assets of at least 10% <u>after</u> receipt of an investment in the amounts described below. Applicants that meet the Pre-Award and Post-Award Standards will be deemed to meet the Viability Test.

Two-Prong Viability Test		
	Tier 1 equity capital	**Total Risk Based Capital**
Pre-Award Standard	4%	8%
Post-Award Standard	5% (*see note)*	10%

Note: Banks will be required to meet the post-award ratio and will qualify to participate regardless of being under a regulatory order.

(5) <u>Guidance</u>: In launching this new initiative, the Obama Administration clearly intended to expand the number of the CDFI banks that are current recipients of TARP as a means of reaching some of the hardest hit communities in our nation. We strongly recommend that the Treasury Department issue clear guidance to the regulatory agencies about its intent and the two-prong viability test (or any other new standards that might be issued), which affects and expands eligibility. Without such guidance, the regulators will continue to apply the standards used for CPP participation, which makes it is highly unlikely that a significant number of new CDFI banks will be able to participate in the CDFI-BCPP.

(6) <u>Presumption</u>: Given the national interest in preserving the CDFI Bank sector in a period of economic turmoil, we strongly recommend that applicants be presumed to be approved for assistance if they (a) meet the pre-award viability standard at the time of application, and (b) would meet the post-award standard with receipt of an award in the amounts described herein. It is assumed that the primary Federal regulatory agency for each CDFI-BCPP applicant will make recommendations regarding applicant approval based on safety and soundness, but it is recommended that the agencies adhere to a standard that an applicant be denied participation based on safety and soundness only if the primary regulatory agency can provide compelling evidence that the applicant presents a high risk of loss to the taxpayers.

(7) <u>Transparency, Appeals and Conditions</u>: If a Federal regulatory agency makes a negative recommendation regarding an applicant's participation, the agency must provide notification to such applicant with a written explanation of specific reasons. The applicant will have the opportunity to submit an appeal and rebuttal to the head of the regulatory agency. The appeal may include an explanation of how any identified concerns and risks will be mitigated if CDFI-BCPP monies are received. The agency head must consult with Treasury and review the rebuttal as part of its final decision. Rather than rejecting the application, the agency should be encouraged to issue a conditional approval, such as including risk mitigation or performance (e.g. equity capital raising) covenants.

Investment Instrument:

The Obama Administration has established that CDFI banks will be able to receive investments priced at 2% per annum for the first 8 years of the investment. Thereafter, the rate will step up to 9% to encourage repayment.

To further clarify the investment instrument, CDBA makes the following recommendations:

Form: All CDFI-BCPP monies will be considered Tier 1 equity capital in the form of preferred perpetual stock/Senior Subordinated Securities. As a means of ensuring that investment instruments are structured appropriately for different types of banks (e.g. C Corp. Sub S, Mutual) that the form will mirror the instruments developed under CPP unless otherwise specified herein.

Warrants: As in the CPP for CDFI banks, CDFI banks will not be required to pay warrants.

Amount: In its October 21 release, the Obama Administration stated that CDFI banks will be eligible to receive up to 2% of risk-weighted assets of assistance under the CDFI-BCPP instrument. We strongly recommend that the Obama Administration revisit this limit to provide CDFI banks with up to 5% of risk-weighted assets, as is offered under the original CPP. Such resources are critically needed for CDFI banks to respond to credit needs within their communities and manage risk in the economic downturn. Based on current figures, at 5% of risk weighted assets, we estimate that the total cost of the program for all CDFI banks to participate to be less than $600 million,

Alternatively, CDBA recommends that CDFI banks be eligible to:

(1) Receive 2% of risk weighted assets through the CDFI-BCPP instrument for each of their bank(s) and bank holding company provided both or all are certified CDFIs; and/or

(2) Receive: (a) 2% of risk weighted assets through the CDFI-BCPP; (b) 2% of risk weighted assets through the new Community Bank program (at 3% per annum); and (c) additional amounts through the original CPP, provided the total investment amount does not exceed 5% of risk weighted assets.

CPP Redemption: As noted above, CDFI banks that are already approved for or that have already received CPP funds should be allowed to redeem all or a portion of their CPP funds in exchange for CDFI-BCPP assistance. If a current CPP participant has grown its total risk weighted assets since original CPP funding, it may request additional assistance up of 5% total current risk weighted assets.

Minority Status: In the case of CDFI banks that currently are minority owned, we recommend that receipt of CDFI-BCPP investment not alter or affect this status in any manner.

Compensation: CDBA members are supportive of strong governance and reasonable size compensation limits as applied to officers and senior staff members under the CPP. Most of our institutions, however, are very small. Applying the current CPP compensation limits for the 25 highest paid staff members in many cases means limiting compensation for the large majority or all staff, including support staff (e.g. tellers, administrative assistants). We ask that these limits be revisited and that standards take into consideration the size of our institutions.

Timing: Funds will be available immediately. For applications received by December 1, 2009, funds will be disbursed prior to December 31, 2009 to ensure that they are recorded as received by end of the accounting period. The window for applications and approvals will remain open until at least June 30, 2010. The later deadline will enable banks for whom conditional approvals may be appropriate to participate in the program.