

Community Development Capital Initiative (CDCI)

FAQs for Credit Unions

Updated September 15, 2010

1. What is the process for applying to the new program?

A: A low income credit union (LICU) that is a Community Development Financial Institution (CDFI) or has submitted an application to the CDFI Fund to become certified must submit a funding application to the National Credit Union Administration (NCUA). The application deadline is April 30, 2010. The application is available on the U.S. Department of the Treasury's program website at www.FinancialStability.gov. A link to this website is also available on NCUAs website at

<http://www.ncua.gov/Resources/CreditUnionDevelopment/index.aspx>.

2. Where do I submit my credit union's application?

A: All credit unions must submit their application to the NCUA. Applications may be submitted via email at LICUCapital@ncua.gov or by facsimile at (703) 518-6676.

3. Does my credit union have to submit a capital plan?

A: Yes. All credit unions must submit a Secondary Capital Plan in accordance with NCUA Rules and Regulations 701.34(b)(1).

4. Will my credit union be disqualified if its Secondary Capital Plan is not ready to submit by the April 30 application deadline?

A: No. Applicants have until May 10, 2010, to submit a Secondary Capital Plan. Credit unions are encouraged to submit the Secondary Capital Plan with the funding application, if possible.

5. Can LICUs receive technical assistance grants from NCUA to help them rapidly develop a Secondary Capital Plan?

A: Yes. NCUA will offer technical assistance grants to assist CDCI applicants in developing a Secondary Capital Plan. The deadline to submit an application for such a grant is April 16, 2010. For additional information, refer to

<http://www.ncua.gov/Resources/CreditUnionDevelopment/Finance.aspx>.

6. How can I tell whether my credit union must raise matching funds in order to receive CDCI funding?

A: LICUs that are certified as CDFIs will receive notice from the NCUA advising whether the preliminary review of available data indicates that matching funds are required to receive CDCI funding. If your CDFI-certified LICU does not receive such notice by March 22, 2010, contact the NCUA at LICUCapital@ncua.gov.

7. How long will it take to receive funding?

A: The NCUA and U.S. Department of the Treasury (Treasury) will process applications on a rolling basis. Factors that will influence the processing time are how long the LICU takes to

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FAQs for Credit Unions

Updated September 15, 2010

submit its Secondary Capital Plan, the completeness of the Secondary Capital Plan, and how long a LICU takes to raise matching funds, if required to do so.

8. Will participation in the CDCI affect a LICU's ability to apply to NCUA for the Community Development Revolving Loan Fund for loans or grants?

A: No, participation in the CDCI program will not preclude an LICU from applying to the Community Development Revolving Loan Fund.

9. I still have questions, which agency should I direct them to?

A: All credit union inquiries about the CDCI should be directed to NCUA at LICUCapital@ncua.gov.

10. Can a credit union invest secondary capital into a low income credit union (for the purpose of raising matching funds)?

A: Yes, under certain conditions a credit union can invest in secondary capital at a LICU as follows:

1. Natural-person federal credit unions (FCUs): Natural-person FCUs may invest in secondary capital accounts at LICUs, whether the LICU is federally or state chartered. 12 U.S.C. § 1757(5) & (7). Such investments must be approved by the board of directors, must not exceed 25 percent of the investor's paid-in and unimpaired capital and surplus, and cannot have a maturity of more than 15 years. *Id.* In addition to these limitations, a federal credit union must also comply with other applicable provisions and regulations, including 12 C.F.R. § 703.6 (requiring federal credit unions to conduct and document a credit analysis on an investment) and § 703.10 (requiring federal credit unions to prepare a quarterly written report to properly monitor non-security investments).
2. Federally-insured or privately-insured state-chartered credit unions: whether state-chartered credit unions can invest in secondary capital accounts at LICUs must be determined by reference to the laws and regulations of the state in which the credit union is chartered.
3. Corporate credit unions (all are currently federally-insured and subject to NCUA's corporate rule): Corporate credit unions may make unsecured loans to members not to exceed 50 percent of the recipient's capital. § 704.7(c). Thus, corporates may invest in secondary capital accounts unless they are chartered under a state law that prevents such investments. Long-term loans to non-members are generally not permitted for corporates. § 704.7(d).

Although legally permissible, NCUA cautions that secondary capital swaps between two or more applicant LICUs that each require matching secondary capital for CDCI qualification could be problematic for purposes of the CDCI underwriting standards. The subordinate

Community Development Capital Initiative (CDCI)

FAQs for Credit Unions

Updated September 15, 2010

nature of secondary capital investments in another LICU that was not considered by Treasury/NCUA to be viable without the match would raise questions about the viability of any investing LICU that also requires matching secondary capital to be eligible.

11. How will I know whether my credit union is determined to be “viable” for the purpose of CDCI funding?

A: For the purpose of determining viability under the program and making a recommendation as to a credit union’s program eligibility and funding, the following performance indicators and parameters will be considered, but not exclusively:

| Performance Indicator | Parameter |
|---|---------------------------|
| CAMEL Composite rating | 1, 2, 3, or 4 |
| Net Worth classification per Part 702 of NCUA Rules and Regulations (Net Worth/Total Assets) | “Adequately capitalized”* |
| CAMEL Component rating in the Management category | Good/effective management |
| Level of net member business loans for construction and development (Net member business loans for construction and development loans / Net Worth) | ≤ 15% |
| Non-performing loans relative to the amount of net worth plus allowance for loan losses (Total Delinquent Loans + OREO) / (Net Worth + Allowance for Loan Losses) | ≤ 25% |

* “Marginally capitalized” for “new” credit unions per NCUA Rules and Regulations 702 Subpart C. A “new” credit union is one that has been in operation for less than 10 years and has total assets of less than \$10 million.

To assist LICUs that are certified as CDFIs, NCUA will send a notice advising such LICUs whether preliminary review of available data indicates that matching funds are required to receive CDCI funding. If your CDFI-certified LICU does not receive such notice by March 22, 2010, contact the NCUA at LICUCapital@ncua.gov.

12. My credit union received a notice from NCUA stating that we need to raise matching funds to participate in the program. The notice cited the credit union’s high level of non-performing loans as the reason for the match requirement. How can my credit union demonstrate that the level of non-performing loans is not an issue?

A: In its preliminary analysis used to generate the notices to program-eligible LICUs, NCUA used the amount of total delinquent loans as reported in the LICUs’ 5300 Reports. For the purpose of this program, NCUA will consider the severity of the delinquency by modifying its calculation to only include loans 90 days and more past due plus OREOs. In order to receive this consideration, the LICU must provide to NCUA the amount of loans 90 days and

Community Development Capital Initiative (CDCI)

FAQs for Credit Unions

Updated September 15, 2010

more past due plus OREOs. This information should be submitted with the funding application and/or secondary capital plan. If these items have already been submitted, they may be submitted up until the funding application deadline. Through this accommodation, NCUA seeks to put credit unions on a more equal footing with banks and thrifts that participate in the program as 90 days and more is the delinquency category used by those institutions.

13. My credit union received a notice from NCUA stating that we need to raise matching funds to participate in the program. How much match is required? What if we believe our credit union should not be required to obtain match?

A: A LICU that is required to obtain matching funds must match the amount of funding it receives from Treasury at a minimum ratio of 1:1.

In cases where a LICU is less than “*adequately capitalized*”, NCUA will recommend match sufficient to bring the LICU to the “*adequately capitalized*” level (“*marginally capitalized*” in the case of a new LICU), within the program funding limits. In all cases however, the match must be at a minimum ratio of 1:1 to Treasury’s funding. If the 1:1 match will not allow the LICU to reach the “*adequately capitalized*” level, the LICU must make up the difference in additional matching funds.

If you believe your credit union should not be required to obtain matching funds, you must provide support in your application that mitigates the need for match. The support must demonstrate that the LICU meets the performance parameter(s) in question. If NCUA determines that the LICU meets the performance parameter(s) in question, NCUA will not request the LICU obtain matching funds as part of the application process. In all cases, the TIC will determine whether the credit union applicant will receive funding and whether matching funds are required, as part of its underwriting process.

14. If my credit union obtains matching funds will this ensure a recommendation for funding?

A: No. The ability to obtain matching funds, by itself, is not an assurance of funding.

15. What post-award reporting requirements are there under the CDCI?

A: Credit unions that receive funding under the CDCI can expect to report to Treasury on how the funds were deployed. Additionally, the agreement that the credit union will sign with Treasury may contain additional requirements and conditions. The Emergency Economic Stabilization Act (EESA) contains provisions that govern executive compensation

Community Development Capital Initiative (CDCI)

FAQs for Credit Unions

Updated September 15, 2010

and corporate governance under the CDCI. For additional information and requirements, refer to the General Printing Office's GPO Access website at http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr&tpl=/ecfrbrowse/Title31/31cfr30_main_02.tpl.

The credit union's management is solely responsible for reviewing all program documents and/or obtaining legal counsel before signing any program documents/agreements.

16. If a state credit union does not qualify for the NCUA low income designation, but the particular state has its own low income designation that is easier to qualify for than NCUA's criteria, and the credit union qualified and is designated as low income under the state's rules, can they still apply for the Treasury funds even though they don't meet or have NCUA's low income designation (assuming they can get CDFI certified)?

A: The term sheet requires that the credit union have a low-income designation pursuant to 12 C.F.R. 701.34. The credit union must meet NCUA's standards for low-income designation under 12 C.F.R. 701.34. In other words, if the credit union meets the qualifications for a state designation but not NCUA's threshold, it cannot apply.

17. What are the responsibilities of a CDCI applicant/recipient in relation to complying with the Treasury Department's regulations on Compensation and Corporate Governance for TARP recipients?

A: CDCI applicants/recipients must comply with all applicable provisions of the Treasury Department's regulations on Compensation and Corporate Governance for TARP recipients. These regulations are available at http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr&tpl=/ecfrbrowse/Title31/31cfr30_main_02.tpl. Determining compliance with the regulations may require an examination and analysis of the substance of a particular payment or arrangement that goes beyond the descriptive label otherwise applied. For example, applicants/recipients should be aware that certain deferred-compensation arrangements and severance payments may violate the prohibition on golden parachute payments set forth in 31 C.F.R. §§ 30.1 and 30.9. These determinations must be made on a case-by-case basis by individual applicants/recipients, taking into consideration all the facts and circumstances involved.

Community Development Capital Initiative (CDCI)

FAQs for Credit Unions

Updated September 15, 2010

18. If my credit union accepts the CDCI investment, will we be prohibited from paying bonuses to employees?

Not necessarily. The prohibition on bonus payments applies only to “[t]he most highly compensated employee of any TARP recipient receiving less than \$25,000,000 in financial assistance....” 31 C.F.R. § 30.10.

So, unless a credit union is receiving \$25 million or more under the CDCI, the restriction on bonus payments applies only to the highest compensated employee. This will, in effect, put the onus on some CEOs (or whoever is the most highly compensated employee at a particular institution) to determine whether they would be willing to give up bonus payments in order for an institution to participate.

The number of employees subject to the bonus restriction increases as the amount of TARP funding increases (at least five most highly compensated if \$25,000,000 but less than \$250,000,000; senior executive officers (SEOs) and at least next ten most highly compensated if \$250,000,000 but less than \$500,000,000; CEOs and at least next twenty most highly compensated if \$500,000,000 or over).