Community Development Bankers Association
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Via Electronic Submission

Mr. Andrew Schlack

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Community Development Financial Institutions Fund
United States Department of the Treasury
1500 Pennsylvania Avenue
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RE: Capital Magnet Fund, Federal Register Document Number Vol. 88, No. 129 / Friday, July 7, 2023

The members of the Community Development Bankers Association (CDBA) respectfully submit the enclosed comments on the Notice for Public Comment published on July 7, 2023 by the Community Development Financial Institutions (CDFI) Fund seeking comments on the Capital Magnet Fund (CMF).

CDBA is the national trade association of Federal and State chartered banks, thrifts, and their holding companies that are certified by the CDFI Fund. Today there are 197 CDFI certified banks and thrifts and 161 certified bank holding companies. Many of our members are also MDIs. These mission-focused financial institutions are a specialized niche within the banking industry, and are active contributors to efforts to ensure sustained housing affordability within low- and moderate income (LMI) communities.

GENERAL RECOMMENDATIONS

As you know, the United States is in the middle of a grave housing crisis. The CMF program has great potential to mitigate the acute need for affordable housing in the LMI communities served by CDFI banks. In the rental market alone, annual rent increases are taking a hard toll on LMI communities. The National Low Income Housing Coalition reports that "nationwide median rents increased by 18% during 2021 and by 25% between January 2021 and June 2022."[1] Unfortunately, wages have not increased enough to offset the pressure: "The average minimum wage worker must work nearly 104 hours per week (2.6 full-time jobs) to afford a two-bedroom rental home at the FMR, or 86 hours per week (just over two full-time jobs) to afford a one-bedroom rental home at the FMR. In no state, metropolitan area, or county in the U.S. can a worker earning the federal or prevailing state or local minimum wage afford a modest two-bedroom rental home at the FMR by working a standard 40-hour work week."[2]

[1] "Out of Reach: The High Cost of housing," National Low Income Housing Coalition, www.nlihc.org/oor
[2] Ibid

Aspiring low-income homebuyers face similar pressure. Habitat for Humanity reports that "the estimated housing payments — including mortgage, insurance and property tax — needed to purchase a median-priced home in the U.S. reached $3,000 per month in March 2023, pricing out 2.4 million more renters from home buying than (2022). This included a disproportionate share of Black and Hispanic homebuyers. The estimated annual income needed to afford median homeownership costs rose 20% to $117,000 — well above the national median income for renters."[3]

We believe Federal programs should be helping to ease the pressure by increasing housing supply, both in the affordable rental and ownership markets. Fortunately, CMF's potential to help is recognized by the market. Unfortunately, given limited resources, this means that the program is consistently oversubscribed: In the FY 2023 round of CMF, 144 applicants requested $1.1 billion in funding from an allocation of just $320.6 million from the Federal Housing Agencies.[4]

However, in the absence of increased finding, judicious changes to the CMF program could still release latent capacity. Appropriate changes should be reflected in a higher rate of funds directed to CDFI banks: We note that only 10 depository CDFIs or their affiliates (3 banks, 5 credit unions, and 2 holding companies) received CMF awards in 2021. Both the program rules and the evaluation process should be configured to maximize the participation of depository CDFIs that have tremendous capacity to leverage resources for affordable housing. Specific changes that would encourage greater depository institution applications are addressed in more detail below.

COMMENTS ON SPECIFIC QUESTIONS

A. Facilitating CMF Alignment with Other Federal Affordable Housing Programs:

We are glad the CDFI Fund is considering closer alignment of CMF with other affordable housing programs. CDBA strongly encourages the CDFI Fund to improve cross-applicability between CMF and other affordable housing programs, such as the Low-Income Housing Tax Credit (LIHTC) program administered by the Department of Housing and Urban Development's (HUD). CMF is particularly complementary to the LIHTC program. Perhaps the most impactful change to improve alignment would be an increase in the very-low income target threshold from 50% AMI to 60% AMI. This is discussed in further detail below.

Greater alignment would yield multiple benefits, including lower costs. Lower costs would allow more funds to pass through to target communities. Cost reductions would come in a number of ways. For example, a greater range of projects would qualify for CMF grant funds, which would reduce financing costs in those projects. Greater alignment would also minimize the administrative costs for both lenders and developers; CDBA members consistently cite duplicative reporting requirements for the wide variety of Federal and State programs, including CMF, and these are significant disincentives for regulated CDFIs to participate. Regulated CDFIs have entirely different cost structures than competing eligible grantees, such as state-affiliated housing finance agencies.

[3] "2023 State of the Nation's Housing Report", Habitat for Humanity, www.habitat.org/costofhome/2023-state-nations-housing-report-lack-affordable-housing

[4] "CDFI Fund Releases Application Demand for FY 2023 Round of Capital Magnet Fund," CDFI Fund, https://www.cdfifund.gov/news/521

For example, we understand that under the Housing and Economic Recovery Act (HERA), properties that are 100% low-income rent-restricted are no longer required to undertake ongoing recertification. We believe that adopting a similar approach to recertification of tenant income for CMF *would* result in a meaningful impact on the administration for the CMF program. This approach could be balanced against possible risks of leasing to non-qualified tenants. It would likely increase interest in the CMF among regulated CDFIs.

One example of an existing program that successfully aligns this way with LIHTC is a Federal Home Loan Bank (FHLB) that allows Sponsors receiving LIHTC credits to bypass additional FHLB monitoring. Instead, the FHLB relies on monitoring by the state housing credit agency. The FHLB maintains affordability safeguards by reviewing LIHTC noncompliance notices received during the retention period. CDBA supports such revisions that would no longer require CMF rent-restricted properties to recertify residents' incomes annually, as long as new residents are certified according to the requirements, and the project maintains compliance with complimentary state or federal programs. Project owners face stiff penalties if they provide false information related their compliance, and low-income residents should not compromise a project's compliance when they succeed in improving their circumstances.

Another way the CMF could better-align with LIHTC is through income-targeting. We strongly urge the CDFI Fund to change the definition of income groups to better align with other federal housing programs. CMF income targeting prioritizes a portion of financed rental units to target very low-income families, defined as those *earning 50% area median income (AMI) and below*. *We suggest the CDFI Fund consider increasing that threshold to 60% AMI, which would be consistent with the LIHTC compliance thresholds, as well as other federal and state programs, without compromising the program's impact.*

An increase in the very low-income threshold would improve CMF's responsiveness to community needs by increasing the number of affordable units that can leverage grant dollars. It would also likely increase interest in the CMF among depositories. Further, while the 50% threshold certainly ensures impact, it unnecessarily restricts the population that CMF can assist. CDFI banks report spending a disproportionate amount of time seeking a limited number of 50% AMI qualifying units to finance, when a much greater number of 60% AMI qualifying units are actively seeking financing. Given the extent of the housing crisis, it makes sense to raise the threshold to 60% so that more units may benefit from the CMF. Banks further note that states and municipalities are increasingly offering soft debt that allows developers to complete 60% AMI deed restricted properties *without* the use of LIHTC.

As an additional improvement, the CDFI Fund should also consider adding an income averaging method, focused on the 60% threshold, in order to better align CMF with state housing agencies and their LIHTC programs.

B. *CMF Commitment Deadline*

In the Request for Comments, the CDFI Fund proposes the following to address challenges arising from the 2-year project deadline:

> *"the commitment deadline would be satisfied if, within two years, a Recipient committed the Award to one of the six Eligible Activities (i.e. capitalize a Loan Loss Reserve, Revolving Loan Fund, Affordable Housing Fund or a fund for Economic Development Activities; or make Risk-Sharing Loans; or provide Loan Guarantees), coupled with a new requirement that a*

commitment to a specific project must be made within three years after the Effective Date of the Assistance Agreement."

CDBA members support the two-step approach proposed by the CDFI Fund to make it easier for CMF participants to meet deadlines. For example, CMF participants are challenged by the current protocols if applying CMF funds to a LHTC project. These projects have long lead times, which are increasingly compounded by surging in construction costs due to scarcity of materials and the competitive labor market. A CDFI bank's initial timeline could be 12-18 months from project identification and LIHTC application to the announcement of tax credit awards. If the project fails to receive an award, the bank is left with just six (6) months to modify their CMF property report and identify a replacement project, with limited chances of success. A three-year-from-effective date commitment period would represent a notable improvement to help lenders adapt to the current market

C. CMF Leverage Requirement and Calculation Rules:

CDBA members support the CDFI Fund's proposal to remove the Reinvestment-level Leverage calculation, in favor of Enterprise-level and Project-level leverage calculations. The latter calculations should be sufficient to demonstrate minimum leverage requirements without the complexity of calculating overall leverage. The Reinvestment-Level Leverage introduces additional and unnecessary complexity when calculating overall leverage and it is difficult to predict repayment and re-deployment with accuracy, which reduces the value of Reinvestment-Leverage Level calculation. Retaining the requirement that repaid award proceeds must be re-invested into new eligible activities within the established Investment Period should address the concern that funds are not used for unintended purposes.

The goal of CMF is to leverage public funds to attract private financing: simplifying the calculations to encourage private leverage of public dollars would advance this goal.

D. CMF Program Income (PI) Rules

CDBA members strongly support the CDFI Fund's proposal to revise requirements around reinvesting PI. CDFI banks are more likely to be able to identify a project for timely PI reinvestment *if the rules are expanded to include all CMF eligible activities*. Current reinvestment requirements are too restrictive. The requirements limit banks' ability to pursue impactful and otherwise qualified lending. An expanded requirement that allows PI to be used for any CMF eligible activity would help CMF achieve its goals. As PI reinvestment is an added benefit to the original CMF investment and leverage, it should be encouraged by expanding the scope of eligible projects. This could possibly also allow lenders to expand into new eligible activities in which they have not operated before.

CDBA members are also open to the idea of adding eligible activities to PI reinvestment *that would not otherwise be eligible under the program*. This would allow the Fund to test "pilot" activities. One example of a pilot is housing for first generation college students from low-income families.

CDBA members strongly recommend that the CDFI Fund reconsider the 36-month completion deadline as it relates to the use of PI. At a minimum, the completion deadline should be extended. CDBA members recommend the CDFI Fund consider an extension to at least 60 months (five years) which would have the joint-benefit aligning with the requirement for the underlying CMF proceeds. The CDFI Fund should also consider longer extensions.

The question of whether to modify the requirement that any PI in excess of $100,000 be committed to a project the following year also deserves close consideration. While the current standard is not unreasonable, modifying the requirement would be consistent with a general simplification of the program requirements.

Regarding the 10-year affordability period required for projects funded with PI, a 10-year period for rental housing is generally appropriate and consistent with the original reward term and the purposes of the program. However, what is *generally* appropriate for rental properties may not be *always* appropriate, or directly applicable to home-purchase programs. We respectfully urge the CDFI Fund to consider how CMF participants might apply for and justify exemptions to the rental retention period, while maintaining high standards, and we refer the Fund to our comments regarding home-purchase programs in section "H. CMF Affordable Homeownership Purchase Price Limitation Rules."

E. CMF Clarification of Rules on Loan Loss Reserves and Loan Guarantees

CDBA members participating in CMF did not report recently applying CMF funds to loan loss reserves (LLR). This may be partially explained by a need for clarification on acceptable practices for setting aside CMF funds for that purpose. We recommend that the CDFI Fund direct resources to educate lenders on how to appropriately and efficiency apply CMF for those purposes.

F. CMF Manufactured Housing Affordability Rules

CDBA members participating in CMF did not report any concerns with rules regarding resident-owned manufactured housing.

G. CMF Funding for Assisted Living Facilities

CDBA members participating in CMF did not report any concerns regarding rules as they affect financing for assisted living facilities.

H. CMF Affordable Homeownership Purchase Price Limitation Rules

Access to affordable homeownership is an important component of efforts to address the housing crisis. CDBA recommends that the CDFI Fund focus on increasing CMF's utility for this purpose.

Indexed price limits are understandably imperfect in their reflection of market fluctuations and responsiveness to individual buyer needs and circumstances. In the current environment of steady and sometimes rapid price increases, the CDFI Fund should reconsider how price limits are indexed. For example, the HOME program limits are updated annually, and cannot reflect conditions in markets with quickly rising prices. Further, affordability will always mean something very different to a low-income multi-person household vs. a single person household.

To mitigate these frictions, we recommend that the CDFI Fund consider substituting the Housing Ratio (Principal, interest, taxes and insurance (PITI), divided by gross income) for the HOME limits. CDBA members active in home-lending consider it a stronger predictor of successful homeownership. An example of the application of the Housing Ratio in an affordable housing program is the Homebuyer Equity Leverage Program (HELP) grants offered by the Federal Home Loan Bank of Dallas.[5] The FHLB

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[5] www.fhlb.com/community-programs/homebuyer-equity-leverage-partnership

Dallas requires a Housing Ratio of less than 40% in implementing the grant. If the Housing Ratio is greater than 40%, the FHLB requires a statement justifying why the higher ratio should be allowed. Possible exceptions include property taxes that do not factor in a homestead exemption (which would lower the PITI), a borrower's track record of successfully paying rent at a level equal to the expected loan payment, or a documentable future salary increase.

One challenge of applying CMF to home ownership is a lack of secondary market liquidity for CMF assisted loans. This appears to be an issue of market unfamiliarity. Purchasers for CMF assisted loans are scarce, despite the market's comfort with other forms of subsidy, such as FHLB grants. This lack of demand for CMF loans on the secondary market is a roadblock for some institutions, particularly when a loan has an FHA guarantee. We strongly recommend that the CDFI Fund establish a recurring series of education/information programs with appropriate agencies to publicize CMF and its role as a legitimate source of down payment assistance.

Another change that could encourage use of CMF is a revision to the minimum retention period on homeownership. CDBA recommends the CDFI Fund consider allowing a 5-year retention period for homeownership. A 5-year retention period would improve program alignment, conforming the CMF deed restriction to other existing affordable housing programs, such as those offered by FHLBs. Alignment would reduce homebuyer confusion – when a lender leveraging a FHLB program along with CMF, it is often confusing, and inconvenient, to the homebuyer when there are two different retention periods. Consistency would encourage participation, and support the general goal of increasing homeownership.

A more thorough reform of the CMF's support for homeownership could also be a candidate for a pilot program. In this scenario, CMF could be utilized in a similar manner to how FHLBs use their set-aside programs for down payment assistance. For example, the FHLB Dallas starts each year with an allocation of funding that is available to their member banks. Each member bank can access a maximum amount per eligible low-income borrower ($15,000 for 2023). Each member bank also has a "Member Cap" that restricts how much each bank can access ($325,000 for 2023).

If the CDFI Fund could similarly make a lump sum available to eligible CDFIs, this could become a well-known, stable source of down payment assistance for low-income families. The CDFI Fund could work with HUD to ensure CMF transactions were widely recognized as an "acceptable source of down payment assistance." To ensure that leverage requirements were met, the funds could be set up so that the CMF grant amount could not exceed 10% of the property sales price.

To minimize administrative overhead, the CDFI Fund could approach participants to commit to utilize a certain amount each year. Participants could then receive the allocation annually with a requirement to prove compliance within 60-90 days of the end of the year.

While a major change to the program, we believe this is worthy of consideration for a pilot.

I. CMF Economic Development Activities Compliance Requirements:

CDBA members recommend that the CDFI Fund establish a minimum period for CMF Economic Development Activities that is consistent with other parts of the program. Economic activities should run at least concurrent with, and ideally beyond, the formal affordability period.

J. Participation of Regulated CDFIs in the CMF Programs:

The CDFI Fund should actively encourage more participation by regulated CDFIs in CMF. CDFI depositories make up 92% of the CDFI industry by assets[6], and are a valuable and largely untapped assets for leveraging CMF dollars. By revising guidelines to respond to the operating environment and structure of these institutions, the CDFI Fund can foster more marketplace competition for affordable housing provision and leverage even more private capital. The issues above, (complex and redundant reporting, lack of alignment with other programs, overly narrow income targets), may not be unique to regulated CDFIs, but are acutely felt by them.

The CDFI Fund can also take steps to accomplish this by ensuring that the program selection process is more balanced. While each CDFI bank faces its own challenges participating in CMF depending on the characteristics of their institutions and market, there is a perception that CMF focuses on non-profit organizations and high-density areas, to the detriment of regulated institutions and rural communities. Banks also express concern that state-affiliated housing agency participation in the program places non-government affiliated applicants at a competitive disadvantage. Government-affiliated Housing Finance Authorities have entirely different funding sources and cost structures – while some may technically be non-profits, the CDFI Fund should reconsider whether these government-affiliated organizations should be eligible participants in CMF as grantees.

We thank you for the opportunity to comment and look forward to working with you on these important matters. If you have questions, please contact Brian Blake, Chief Public Policy Officer at (202) 689-8935 ext. 225, or blakeb@pcgloanfund.org.

Sincerely,

Brian Blake
Chief Public Policy Officer

[6]Federal Reserve Bank of New York, "Sizing the CDFI Market: Understanding Industry Growth" August 9, 2023, www.newyorkfed.org/medialibrary/media/newsevents/news/regional_outreach/2023/sizing-the-cdfi-market-understanding-industry-growth