

Area if it wholly consists of or is wholly located within an Empowerment Zone or Enterprise Community.

Section 1805.201(b)(3)(ii)(A)(2) of the current rule provides that in order for a geographic area to qualify as an Investment Area, it must generally meet one of the objective criteria of economic distress set forth in § 1805.201(b)(3)(ii)(D) of the current rule. Section 1805.201(b)(3)(ii)(D) of the current rule contains a list of five economic distress criteria. In § 1805.201(b)(3)(ii)(D)(4) of the current rule, one criterion is that the percentage of occupied distressed housing (as indicated by lack of complete plumbing and occupancy of more than one person per room) in the geographic area is at least 20 percent. The Fund has determined that such criterion is no longer necessary, because the Fund has found that geographic areas that meet the occupied distressed housing criterion also meet one or more of the other economic distress criteria. The Fund thus believes that the deletion of the occupied distressed housing criterion will have no substantive adverse effect on a geographic area qualifying as an Investment Area. Accordingly, this interim rule deletes the occupied distressed housing criterion for purposes of regulatory economy and efficiency.

Section 1805.201(b)(3)(ii)(D)(5)(i) of the current rule contains an Investment Area distress criterion that for areas located outside of a Metropolitan Area, the county population loss in the period between the most recent decennial census and the previous decennial census is at least 10 percent. The Fund has determined that this 10 percent threshold figure is no longer applicable in light of the fact that the most recent decennial census indicates that only a small fraction of such counties experienced such a loss between 1990 and 2000.

In addition, § 1805.201(b)(3)(ii)(D)(5)(ii) of the current rule contains an Investment Area distress criterion that for areas located outside of a Metropolitan Area, the county net migration loss over the five year period preceding the most recent decennial census is at least five percent. In light of the most recent decennial census data, the Fund believes that this distressed criterion is no longer an accurate measure of an area's economic distress. Accordingly, this interim rule deletes the county population loss and county net migration loss distress criteria for purposes of regulatory economy and efficiency.

Matching Funds—Retained Earnings

Section 1805.504(d)(4)(i)(A) of the current rule provides that an Assistance Agreement with insured credit union Awardees that seek to use as matching funds retained earnings in the form of their net capital accumulated since inception shall require that such Awardees increase their member and/or nonmember shares by an amount that is at least equal to four times the amount of retained earnings that is committed as matching funds. The Fund believes that this four-fold increase is excessive and unduly burdensome for many small insured credit union Awardees that face incremental, rather than large-scale growth. In previous NOFAs under the Small and Emerging CDFI Assistance Component, the Fund waived the four-fold requirement and in its place held "small and emerging" insured credit union Awardees to a two-fold requirement. However, the Fund believes that the flexibility to vary the amount of such increases should be codified in this interim rule. Accordingly, § 1805.504(d)(4)(i)(A) of this interim rule is revised to require insured credit union Awardees, which seek to use net capital accumulated since their inception as matching funds, to increase their member and/or nonmember shares by an amount set forth in an applicable NOFA.

Section 1805.504(d)(4)(i)(B) of the current rule requires the increase in member and/or nonmember shares to be achieved within 24 months from September 30 of the calendar year in which the applicable application deadline falls. The Fund believes that this time frame needs to be shortened by three months so that if an Awardee fails to timely achieve the increase, the Fund can make a corresponding reduction in the award amount and then utilize the freed up funds to make additional awards on or before September 30, which is the last date that such funds will generally be available to make awards. Accordingly, § 1805.504(d)(4)(i)(B) of this interim rule is revised to require insured credit union awardees, which seek to use net capital accumulated since inception, to increase their member and/or nonmember shares within 24 months from June 30 of the calendar year in which the applicable application deadline falls.

Application Contents

Section 1805.601 of the current rule describes the Application content requirements for entities seeking financial and/or technical assistance. This interim rule deletes § 1805.601 for

purposes of regulatory economy and efficiency, because such requirements are already contained in and will continue to be contained in the applicable applications.

Evaluation of Applications

Section 1805.701(b) of the current rule describes the criteria that the Fund will consider in evaluating applications for assistance. Section 1805.701(b)(9) of the current rule provides that the Fund will consider on the one hand the extent of need for the Fund's assistance, and on the other hand, in the case of an Applicant that has previously received assistance under the CDFI Program, the Applicant's level of success in meeting, among other things, its performance goals and whether it will expand its activities. The latter is derived from Section 105 of the Act (12 U.S.C. 4704(b)(4)). The Fund has decided to bifurcate these two criteria for purposes of clarity. Accordingly, § 1805.701(b)(10) of this interim rule contains the criterion by which the Fund will evaluate, in the case of an Applicant that has previously received assistance under the CDFI Program, its level of success and whether it will expand its activities.

Notice of Award—Terms and Conditions of Assistance

Section 1805.801 of the current rule provides that prior to providing any assistance, the Fund and an Awardee shall enter into an Assistance Agreement. Section 1805.801 of the current rule also describes the terms and conditions of an Assistance Agreement. However, there is a gap in the current rule between the evaluation and selection of an Applicant and the Applicant's entering into an Assistance Agreement with the Fund. To fill this gap, the Fund is adding a new section to this interim rule that essentially codifies the terms and conditions contained in the Notices of Award executed by the Fund and each Awardee under the CDFI Program. Specifically, § 1805.801 of this interim rule provides that once an Applicant has been selected to receive assistance, the Fund and the Awardee will generally execute a Notice of Award. Section 1805.801 of this interim rule also provides that the Notice of Award will contain the general terms and conditions underlying the Fund's provision of assistance, and that the Fund may terminate the Notice of Award or take other actions in the event of, among other things, Awardee fraud, Awardee mismanagement, or Awardee noncompliance with the terms of any