

previous Assistance Agreement entered into with the Fund.

Assistance Agreement; Sanctions

Section 1805.801(b) of the current rule provides that an Awardee shall comply with mutually negotiated performance goals. However, § 1805.801(b) does not describe the types of performance goals to which an Awardee and the Fund may mutually agree. Accordingly, § 1805.802(b) of this interim rule adds an illustrative list of the types of performance goals that may be mutually agreed to.

Section 1805.801(c) of the current rule states that an Assistance Agreement shall provide that, in the event of fraud, mismanagement, noncompliance with the Fund's regulations, or noncompliance with the Assistance Agreement on the part of an Awardee, the Fund, in its discretion, may impose one or more sanctions. Section 1805.801(c)(7) of the current rule contains a catch-all sanction in that it authorizes the Fund to take any other action as permitted by the terms of the Assistance Agreement. The enumerated sanctions in § 1805.801(c) of the current rule are derived from Section 109 of the Act (12 U.S.C. 4707(f)(2)(C)), which commits to the Fund's discretion the ability to impose sanctions on an Awardee in the case of fraud, mismanagement or noncompliance. Section 109 of the Act (12 U.S.C. 4707(f)(2)(C)(vii)) also contains a catch-all sanction in that it confers upon the Fund the discretion to "take such other actions as the Fund deems appropriate." The Fund has decided to revise the catch-all sanction contained in the current rule to conform to the plain language of the Act. Accordingly, § 1805.802(c)(7) of this interim rule is revised to authorize the Fund to take such other actions, as the Fund deems appropriate.

Section 1805.801(d) of the current rule provides that in the case of an Insured Depository Institution, the Assistance Agreement shall provide that the Act, the implementing regulations and the Assistance Agreement shall be enforceable under 12 U.S.C. 1818 by the Appropriate Federal Banking Agency. Section 1805.801(d) of the current rule is derived from Section 119 of the Act (12 U.S.C. 4717(b)), which provides that the Act, the implementing regulations, and agreements entered into under the Act are enforceable by the Appropriate Federal Banking Agency in the case of an Insured CDFI. The Fund seeks to revise § 1805.801(d) of the current rule to conform to the plain meaning of the Act. Accordingly, § 1805.802(d) of this interim rule is revised by replacing

"Insured Depository Institution" with "Insured CDFI."

Reporting

Section 1805.803(e)(2) of the current rule requires each Awardee to submit semi-annual reports consisting of internal financial statements and information on its compliance with its financial soundness covenants. The Fund believes that these semi-annual reporting requirements are unduly burdensome, and has decided to reduce the frequency of such reporting from semi-annually to annually. Accordingly, § 1805.804(e)(2) of this interim rule requires each Awardee to submit to the Fund its fiscal year end unaudited statements of financial condition on an annual basis.

IV. Rulemaking Analysis

Executive Order (E.O.) 12866

It has been determined that this regulation is not a significant regulatory action as defined in Executive Order 12866. Therefore, a Regulatory Assessment is not required.

Regulatory Flexibility Act

Because no notice of proposed rule making is required for this revised interim rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

The collections of information contained in this interim rule have been previously reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 and assigned OMB Control Number 1559-0006. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB. This document restates the collections of information without substantive change.

Comments concerning suggestions for reducing the burden of collections of information should be directed to the Deputy Director for Policy and Programs, Community Development Financial Institutions Fund, 601 13th Street, NW., Suite 200 South, Washington, DC 20005 and to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

National Environmental Policy Act

Pursuant to Treasury Directive 75-02 (Department of the Treasury Environmental Quality Program), the

Department has determined that these interim regulations are categorically excluded from the National Environmental Policy Act and do not require an environmental review.

Administrative Procedure Act

Because the revisions to this interim rule relate to loans and grants, notice and public procedure and a delayed effective date are not required pursuant to the Administrative Procedure Act found at 5 U.S.C. 553(a)(2).

Comment

Public comment is solicited on all aspects of this interim regulation. The Fund will consider all comments made on the substance of this interim regulation, but does not intend to hold hearings.

Catalog of Federal Domestic Assistance Number

Community Development Financial Institutions Program—21.020.

List of Subjects in 12 CFR Part 1805

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Small businesses.

For the reasons set forth in the preamble, 12 CFR part 1805 is revised to read as follows:

PART 1805—COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS PROGRAM

Subpart A—General Provisions

Sec.

- 1805.100 Purpose.
- 1805.101 Summary.
- 1805.102 Relationship to other Fund programs.
- 1805.103 Awardee not instrumentality.
- 1805.104 Definitions.
- 1805.105 Waiver authority.
- 1805.106 OMB control number.

Subpart B—Eligibility

- 1805.200 Applicant eligibility.
- 1805.201 Certification as a Community Development Financial Institution.

Subpart C—Use of Funds/Eligible Activities

- 1805.300 Purposes of financial assistance.
- 1805.301 Eligible activities.
- 1805.302 Restrictions on use of assistance.
- 1805.303 Technical assistance.

Subpart D—Investment Instruments

- 1805.400 Investment instruments—general.
- 1805.401 Forms of investment instruments.
- 1805.402 Assistance limits.
- 1805.403 Authority to sell.

Subpart E—Matching Funds Requirements

- 1805.500 Matching funds—general.