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REZNICK GROUP'S

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2009 CONFERENCE SERIES

Reznick Group

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# Basic Compliance Requirements

## "A Tightly Regulated Program"

Debbie Rosier, Manager
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How aware should you be about NMTC compliance?

Very; however, it is quite manageable if you understand the program and maintain documentation.

## Three Types of Compliance

- Allocation Agreement Compliance
- Reporting Compliance
- Tax Compliance

## Allocation Agreement Compliance

- Schedule I
  - Eligible Activities
  - Service Area
  - Subsidiary CDEs
  - Unrelated Activities
  - Flexible Products
  - Targeted Distressed Communities
  - Qualified Equity Usage

# Eligible Activities – What does this mean and how to document?

- Real Estate vs. Non-Real Estate
- Investments in Other CDEs
- Loan Purchases
- Financial Counseling and Other Services (FCOS)
- "15% Carve Out"

Restrictions on Financing Real Estate

Proceeds must be used for:

- New construction and rehabilitation (includes acquisition).
- Take out financing (original loan utilized for items noted above).
- No refinancing (except take-out construction loans).

## Service Area

- Very specific
- Can be modified, but it is not easily done
- "15% Carve Out"

## Subsidiary CDEs

- Must be approved and a party to Allocation Agreement
- Can be added easily at a later date

# Related Party Restriction (A.K.A. Unrelated Activities)

- Locked election in CDE application
- What does this mean/how defined
- Snapshot "after" CDE makes its investment
- "No" carve out

## Flexible Products

- Need to comply with laundry list
- Locked election in CDE application
- How to document?

## Targeted Distressed Community

- Locked election in CDE Application
- Need to comply with laundry list
- How to document?

## Qualified Equity Usage

- Locked election in CDE Application
- What does this mean?
- How does this impact how CDE fees are paid?

## Reporting Requirements

- Notice to taxpayer of QEI (IRS Form 8874A) – 60 day rule
- Automated Tracking System filing – 60 day rule
- Institutional Level Report – when required?
- Transactional Level Report – when required?
- Audited Financial Statements – when required?

## IRS Compliance

Centers Around NMTC Recapture

- CDE maintenance
- QEI Redemption
- Substantially All Investment Criteria
- Qualification of Investments

## Compliance Monitoring

- CDFI Fund site reviews
- Investor requirements
- IRS audits

# CDFI Fund: Site Visit Agenda

| Topic | | Potential Interviewees |
|---|---|---|
| 1. | Introductions and Overview of the Site Visit<br>• Agenda overview.<br>• Establishing a schedule to meet with specific personnel.<br>2. Discuss current NMTC initiatives of Allocatee relative to the business strategy outlined in the original NMTC applications to the Fund. Discuss any challenges and/or lessons learned, perception of the state of the NMTC industry, changes in operating/competitive environment. | Senior Management and NMTC administrators |
| 3. | Assessment of Activities. | Loan Officer, Reporting Officials. |
| 4. | Assessment of Allocatee Records. | Review Files With or Without the Allocatee Present |
| 5. | Assessment of Allocatee Reporting and Systems. | Review Reporting Process with Appropriate Allocatee Personnel |
| 6. | Assessment of CDE Certification Status. | Authorized Representative, Board Members. |
| 7. | Exit interview – outline of "next steps":<br>▪ Review list of additional documents or information needed. | All those involved in the site visit. |
| 8. | Feedback from Awardee regarding NMTC program:<br>▪ Application, closing and reporting process. | |

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