

Publications

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Updates from the April 2025 New Market Tax Credit (NMTC) Compliance Monitoring FAQs

The U.S. Department of the Treasury CDFI Fund released its annual FAQ's this month. Below is a recap of the most recent updates on NMTC compliance.

If an Allocatee commits to provide QLICIs for non-Real Estate Activities as an innovative investment under Section 3.2(l) of the Allocation Agreement, can a financial note financing both Real Estate and non-Real Estate Activities count toward this commitment?

No, all QLICI's used entirely for non-Real Estate Activities (both Note A and Note B) must be supported by documentation that its uses are designated for non-Real Estate Activities and must be recorded in the TLR with a "purpose" of "Non-Real Estate Business," "Non-Real Estate Microenterprise" or "Other." However, the financing activities of other CDEs are not considered in the Allocatee's commitment to Non-Real Estate Activities. As a result, in such transactions, other CDEs may provide financing for Real Estate Activities.

A Clarification on Types of Supporting Documentation for Areas of Higher Distress

Supporting documentation for the Areas of Higher Distress requirement may include:

- statistical indices of economic distress such as poverty rates, MFI or unemployment rates at the census tract level based upon the Census or American Communities Survey (ACS) specified in the Allocation Agreement or other guidance materials; and
- materials from other government programs (e.g., HUD Renewal Communities; EPA Brownfields) demonstrating the area qualified for assistance under those programs.

How will the CDFI Fund measure compliance with newly added Areas of Deep Distress criteria as detailed in the CY 2024-2025 Application?

The CDE will need to make the dollar equivalent of the percent they committed to areas of deep distress in the following areas: 1) Deep Distress, 2) NMTC Native Areas, 3) High Migration Rural Counties, or 4) US Island Areas.

How will the CDFI Fund measure compliance with meeting the requirement of

Related People

- S. Shawn Whitney
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Section 3.2(h) Targeted Distressed Communities or the “Deep Distress” criteria for a QALICB with tangible property in several census tracts?

Compliance will be maintained so long as the QLICI meets the following requirements:

1. at least 50% of the total gross income is from the active conduct of a qualified business in the eligible Targeted Distressed Community;
2. at least 40% of the use of tangible property of the business is within the eligible Targeted Distressed Community; and
3. at least 40% of the services performed by the business’s employees are performed in the eligible Targeted Distressed Community.

However, A can also be met if both B and C are met at the 50% level. And, if the QALICB has no employees, then C is satisfied by meeting the tangible property criteria at 85%.

How does the CDFI Fund define activities that “support health related services” as it relates to QLICIs in federally designated Medically Underserved Areas (MUA) or geographic Health Professional Shortage Areas (HPSA) as designated by the Health Resources & Service Administration (HRSA)?

The QALICB must provide medical and health related services to communities or populations in the MUA or HPSA or increase access to health-related services in the MUA or HPSA. The QLICI must meet at least one of the following criteria:

1. QLICI is used to finance a QALICB that provides direct medical and dental care, including screenings, diagnostic and preventative care, or support services that contribute directly to that care.
2. QLICI is used to finance a QALICB that provides non-medical such as mental health care, behavioral health care, substance abuse treatment (including assessments); physical and/or occupational therapy; or support services that contribute directly to that care (e.g.,
3. Referrals/case management, chronic disease management, transportation necessary for adequate patient care, etc.).
4. QLICI is used to finance real estate activities where at least 50% of the rentable square footage is leased to businesses providing health related services.

How will the CDFI Fund determine if a project is located in a census tract designated as Low-Income and Low-Access to supermarkets, supercenters or large grocery stores using USDA’s Food Access Research Atlas?

If a project is located in any of the four “Low-Income and Low-Access” criteria in the USDA’s Food Access Research Atlas (FARA), then it will be located in such a census tract, given that the QLICI activities will increase access to healthy food.

To view the full Compliance Monitoring FAQ, please visit [here](#).

Polsinelli’s Tax Credit Finance Team continues to monitor and track updates from the CDFI Fund and is ready to help CDE’s, Investors and Developers navigate the deployment of NMTC capital.