

**(8) Depository institution holding company**

The term “depository institution holding company” has the same meaning as in section 1813 of this title.

**(9) Development services**

The term “development services” means activities that promote community development and are integral to lending or investment activities, including—

- (A) business planning;
- (B) financial and credit counseling; and
- (C) marketing and management assistance.

**(10) Fund**

The term “Fund” means the Community Development Financial Institutions Fund established under section 4703(a) of this title.

**(11) Indian reservation**

The term “Indian reservation” has the same meaning as in section 1903(10) of title 25, and shall include land held by incorporated Native groups, regional corporations, and village corporations, as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], public domain Indian allotments, and former Indian reservations in the State of Oklahoma.

**(12) Indian tribe**

The term “Indian tribe” means any Indian tribe, band, pueblo, nation, or other organized group or community, including any Alaska Native village or regional or village corporation, as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**(13) Insured community development financial institution**

The term “insured community development financial institution” means any community development financial institution that is an insured depository institution or an insured credit union.

**(14) Insured credit union**

The term “insured credit union” has the same meaning as in section 1752(7) of this title.

**(15) Insured depository institution**

The term “insured depository institution” has the same meaning as in section 1813 of this title.

**(16) Investment area**

The term “investment area” means a geographic area (or areas) including an Indian reservation that—

- (A)(i) meets objective criteria of economic distress developed by the Fund, which may include the percentage of low-income families or the extent of poverty, the rate of unemployment or underemployment, rural population outmigration, lag in population growth, and extent of blight and disinvestment; and

- (ii) has significant unmet needs for loans or equity investments; or

- (B) encompasses or is located in an empowerment zone or enterprise community designated under section 1391 of title 26.

**(17) Low-income**

The term “low-income” means having an income, adjusted for family size, of not more than—

- (A) for metropolitan areas, 80 percent of the area median income; and

- (B) for nonmetropolitan areas, the greater of—

- (i) 80 percent of the area median income; or

- (ii) 80 percent of the statewide nonmetropolitan area median income.

**(18) State**

The term “State” has the same meaning as in section 1813 of this title.

**(19) Subsidiary**

The term “subsidiary” has the same meaning as in section 1813 of this title, except that a community development financial institution that is a corporation shall not be considered to be a subsidiary of any insured depository institution or depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation, and does not otherwise control in any manner the election of a majority of the directors of the corporation.

**(20) Targeted population**

The term “targeted population” means individuals, or an identifiable group of individuals, including an Indian tribe, who—

- (A) are low-income persons; or

- (B) otherwise lack adequate access to loans or equity investments.

**(21) Training program**

The term “training program” means the training program operated by the Fund under section 4708 of this title.

(Pub. L. 103-325, title I, § 103, Sept. 23, 1994, 108 Stat. 2163.)

## REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in par. (6), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§ 661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

The Alaska Native Claims Settlement Act, referred to in pars. (11) and (12), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

**§ 4703. Establishment of national Fund for community development banking****(a) Establishment****(1) In general**

There is established a corporation to be known as the Community Development Finan-

cial Institutions Fund that shall have the duties and responsibilities specified by this subchapter and subchapter II of this chapter. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.

**(2) Wholly owned Government corporation**

The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subchapter.

**(b) Management of Fund**

**(1) Appointment of Administrator**

The management of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator.

**(2) Chief financial officer**

The Administrator shall appoint a chief financial officer, who shall have the authority and functions of an agency Chief Financial Officer under section 902 of title 31. In the event of a vacancy in the position of the Administrator or during the absence or disability of the Administrator, the chief financial officer shall perform the duties of the position of Administrator.

**(3) Other officers and employees**

The Administrator may appoint such other officers and employees of the Fund as the Administrator determines to be necessary or appropriate.

**(4) Expedited hiring**

During the 2-year period beginning on September 23, 1994, the Administrator may—

(A) appoint and terminate the individuals referred to in paragraphs (2) and (3) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (3) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

**(c) General powers**

In carrying out the functions of the Fund, the Administrator—

(1) shall have all necessary and proper authority to carry out this subchapter and subchapter II of this chapter;

(2) shall have the power to adopt, alter, and use a corporate seal for the Fund, which shall be judicially noticed;

(3) may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which business of the Fund may be conducted and such rules and regulations as may be necessary or appropriate to implement this subchapter and subchapter II of this chapter;

(4) may enter into, perform, and enforce such agreements, contracts, and transactions as may be deemed necessary or appropriate to the conduct of activities authorized under this subchapter and subchapter II of this chapter;

(5) may determine the character of and necessity for expenditures of the Fund and the manner in which they shall be incurred, allowed, and paid;

(6) may utilize or employ the services of personnel of any agency or instrumentality of the United States with the consent of the agency or instrumentality concerned on a reimbursable or nonreimbursable basis; and

(7) may execute all instruments necessary or appropriate in the exercise of any of the functions of the Fund under this subchapter and subchapter II of this chapter and may delegate to the officers of the Fund such of the powers and responsibilities of the Administrator as the Administrator deems necessary or appropriate for the administration of the Fund.

**(d) Advisory Board**

**(1) Establishment**

There is established an advisory board to the Fund to be known as the Community Development Advisory Board, which shall be operated in accordance with the provisions of the Federal Advisory Committee Act, except that section 14 of that Act does not apply to the Board.

**(2) Membership**

The Board shall consist of 15 members, including—

(A) the Secretary of Agriculture or his or her designee;

(B) the Secretary of Commerce or his or her designee;

(C) the Secretary of Housing and Urban Development or his or her designee;

(D) the Secretary of the Interior or his or her designee;

(E) the Secretary of the Treasury or his or her designee;

(F) the Administrator of the Small Business Administration or his or her designee; and

(G) 9 private citizens, appointed by the President, who shall be selected, to the maximum extent practicable, to provide for national geographic representation and racial, ethnic, and gender diversity, including—

(i) 2 individuals who are officers of existing community development financial institutions;

(ii) 2 individuals who are officers of insured depository institutions;

(iii) 2 individuals who are officers of national consumer or public interest organizations;

(iv) 2 individuals who have expertise in community development; and

(v) 1 individual who has personal experience and specialized expertise in the unique lending and community development issues confronted by Indian tribes on Indian reservations.

**(3) Chairperson**

The members of the Board specified in paragraph (2)(G) shall select, by majority vote, a

chairperson of the Board, who shall serve for a term of 2 years.

**(4) Board function**

It shall be the function of the Board to advise the Administrator on the policies of the Fund regarding activities under this subchapter. The Board shall not advise the Administrator on the granting or denial of any particular application.

**(5) Terms of private members**

**(A) In general**

Each member of the Board appointed under paragraph (2)(G) shall serve for a term of 4 years.

**(B) Vacancies**

Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the previous member was appointed shall be appointed for the remainder of such term. Members may continue to serve following the expiration of their terms until a successor is appointed.

**(6) Meetings**

The Board shall meet at least annually and at such other times as requested by the Administrator or the chairperson. A majority of the members of the Board shall constitute a quorum.

**(7) Reimbursement for expenses**

The members of the Board may receive reimbursement for travel, per diem, and other necessary expenses incurred in the performance of their duties, in accordance with the Federal Advisory Committee Act.

**(8) Costs and expenses**

The Fund shall provide to the Board all necessary staff and facilities.

**(e) Omitted**

**(f) Government Corporation Control Act exemption**

Section 9107(b) of title 31, shall not apply to deposits of the Fund made pursuant to section 4707 of this title.

**(g) Limitation of Fund and Federal liability**

The liability of the Fund and the United States Government arising out of any investment in a community development financial institution in accordance with this subchapter shall be limited to the amount of the investment. The Fund shall be exempt from any assessments and other liabilities that may be imposed on controlling or principal shareholders by any Federal law or the law of any State, Territory, or the District of Columbia. Nothing in this subsection shall affect the application of any Federal tax law.

**(h) Prohibition on issuance of securities**

The Fund may not issue stock, bonds, debentures, notes, or other securities.

**(i) Omitted**

**(j) Assisted institutions not United States instrumentalities**

A community development financial institution or other organization that receives assist-

ance pursuant to this subchapter shall not be deemed to be an agency, department, or instrumentality of the United States.

**(k) Transition period**

**(1) In general**

During the transition period, the Secretary of the Treasury may—

(A) assist in the establishment of the administrative functions of the Fund listed in paragraph (2); and

(B) hire not more than 6 individuals to serve as employees of the Fund during the transition period.

**(2) Continued service**

Individuals hired in accordance with paragraph (1)(B) may continue to serve as employees of the Fund after the transition period.

**(3) Administrative functions**

The administrative functions referred to in paragraph (1)(A) shall be limited to—

(A) establishing accounting, information, and recordkeeping systems for the Fund; and

(B) procuring office space, equipment, and supplies.

**(4) Expedited hiring**

During the transition period, the Secretary of the Treasury may—

(A) appoint and terminate the individuals referred to in paragraph (1)(B) without regard to the civil service laws and regulations; and

(B) fix the compensation of the individuals referred to in paragraph (1)(B) without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 relating to classification of positions and General Schedule pay rates, except that the rate of pay for such individuals may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

**(5) Certain employees**

During the transition period, employees of the Department of the Treasury may only comprise less than one-half of the total number of individuals hired in accordance with paragraph (1)(B).

**(6) Transition expenses**

Amounts previously appropriated to the Department of the Treasury may be used to pay obligations and expenses of the Fund incurred under this section, and such amounts may be reimbursed by the Fund to the Department of the Treasury from amounts appropriated to the Fund for fiscal year 1995.

**(7) "Transition period" defined**

For purposes of this subsection, the term "transition period" means the period beginning on September 23, 1994, and ending on the date on which the Administrator is appointed.

(Pub. L. 103-325, title I, §104, Sept. 23, 1994, 108 Stat. 2166.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (d)(1), (7), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5.

## CODIFICATION

Section is comprised of section 104 of Pub. L. 103-325. Subsecs. (e) and (i) of section 104 of Pub. L. 103-325 amended section 9101 of Title 31, Money and Finance, and section 5313 of Title 5, Government Organization and Employees, respectively.

ADMINISTRATION OF FUND BY SECRETARY OF THE  
TREASURY

Pub. L. 104-134, title I, §101(e) [title III], Apr. 26, 1996, 110 Stat. 1321-257, 1321-294; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided in part: "That notwithstanding any other provision of law, for purposes of administering the Community Development Financial Institutions Fund, the Secretary of the Treasury shall have all powers and rights of the Administrator of the CDBFI Act [12 U.S.C. 4701 et seq.] and the Fund shall be within the Department of the Treasury."

Similar provisions were contained in the following prior appropriations act:

Pub. L. 104-19, title I, July 27, 1995, 109 Stat. 237.

**§ 4704. Applications for assistance****(a) Form and procedures**

An application for assistance under this subchapter shall be submitted in such form and in accordance with such procedures as the Fund shall establish.

**(b) Minimum requirements**

Except as provided in sections 4705 and 4712 of this title, the Fund shall require an application—

(1) to establish that the applicant is, or will be, a community development financial institution;

(2) to include a comprehensive strategic plan for the organization that contains—

(A) a business plan of not less than 5 years in duration that demonstrates that the applicant will be properly managed and will have the capacity to operate as a community development financial institution that will not be dependent upon assistance from the Fund for continued viability;

(B) an analysis of the needs of the investment area or targeted population and a strategy for how the applicant will attempt to meet those needs;

(C) a plan to coordinate use of assistance from the Fund with existing Federal, State, local, and tribal government assistance programs, and private sector financial services;

(D) an explanation of how the proposed activities of the applicant are consistent with existing economic, community, and housing development plans adopted by or applicable to an investment area or targeted population; and

(E) a description of how the applicant will coordinate with community organizations and financial institutions which will provide equity investments, loans, secondary markets, or other services to investment areas or targeted populations;

(3) to include a detailed description of the applicant's plans and likely sources of funds to match the amount of assistance requested from the Fund;

(4) in the case of an applicant that has previously received assistance under this subchapter, to demonstrate that the applicant—

(A) has substantially met its performance goals and otherwise carried out its responsibilities under this subchapter and the assistance agreement; and

(B) will expand its operations into a new investment area or serve a new targeted population, offer more products or services, or increase the volume of its business;

(5) in the case of an applicant with a prior history of serving investment areas or targeted populations, to demonstrate that the applicant—

(A) has a record of success in serving investment areas or targeted populations; and

(B) will expand its operations into a new investment area or to serve a new targeted population, offer more products or services, or increase the volume of its current business; and

(6) to include such other information as the Fund deems appropriate.

**(c) Preapplication outreach program**

The Fund shall provide an outreach program to identify and provide information to potential applicants and may provide technical assistance to potential applicants, but shall not assist in the preparation of any application.

(Pub. L. 103-325, title I, §105, Sept. 23, 1994, 108 Stat. 2170.)

**§ 4705. Community partnerships****(a) Application**

An application for assistance may be filed jointly by a community development financial institution and a community partner to carry out a community partnership.

**(b) Application requirements**

The Fund shall require a community partnership application—

(1) to meet the minimum requirements established for community development financial institutions under section 4704(b) of this title, except that the criteria specified in paragraphs (1) and (2)(A) of section 4704(b) of this title shall not apply to the community partner;

(2) to describe how each coapplicant will participate in carrying out the community partnership and how the partnership will enhance activities serving the investment area or targeted population; and

(3) to demonstrate that the community partnership activities are consistent with the strategic plan submitted by the community development financial institution coapplicant.

**(c) Selection criteria**

The Fund shall consider a community partnership application based on—

(1) the community development financial institution coapplicant—

(A) meeting the minimum selection criteria described in section 4704 of this title; and

(B) satisfying the selection criteria of section 4706 of this title;

(2) the extent to which the community partner coapplicant will participate in carrying out the partnership;