

and satisfying the terms and conditions of its assistance agreement.

(e) Reporting

(1) Annual reports

The Fund shall require each community development financial institution receiving assistance under this subchapter to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subchapter, in such form and manner as the Fund shall specify.

(2) Availability of reports

The Fund, after deleting or redacting any material as appropriate to protect privacy or proprietary interests, shall make such reports submitted under paragraph (1) available for public inspection.

(Pub. L. 103-325, title I, §115, Sept. 23, 1994, 108 Stat. 2184.)

§ 4715. Special provisions with respect to institutions that are supervised by Federal banking agencies

(a) Consultation with appropriate agencies

The Fund shall consult with and consider the views of the appropriate Federal banking agency prior to providing assistance under this subchapter to—

- (1) an insured community development financial institution;
- (2) any community development financial institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency; or
- (3) any community development financial institution that has as its community partner an institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(b) Requests for information, reports, or records

(1) In general

Except as provided in paragraph (4), notwithstanding any other provisions of this subchapter, prior to directly requesting information from or imposing reporting or recordkeeping requirements on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, the Fund shall consult with the appropriate Federal banking agency to determine if the information requested is available from or may be obtained by such agency in the form, format, or detail required by the Fund.

(2) Timing of response from appropriate Federal banking agency

If the information, reports, or records requested by the Fund pursuant to paragraph (1) are not provided by the appropriate Federal banking agency in less than 15 calendar days after the date on which the material is requested, the Fund may request the information from or impose the recordkeeping or re-

porting requirements directly on such institutions with notice to the appropriate Federal banking agency.

(3) Elimination of duplicative information and reporting requirements

The Fund shall use any information provided the appropriate Federal banking agency under this section to the extent practicable to eliminate duplicative requests for information and reports from, and recordkeeping by an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(4) Exception

Notwithstanding paragraphs (1) and (2), the Fund may require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency to provide information with respect to the institution's implementation of its strategic plan or compliance with the terms of its assistance agreement under this subchapter, after providing notice to the appropriate Federal banking agency.

(c) Exclusion for examination reports

Nothing in this section shall be construed to permit the Fund to require an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, to obtain, maintain, or furnish an examination report of any appropriate Federal banking agency or records contained in or related to such a report.

(d) Sharing of information

The Fund and the appropriate Federal banking agency shall promptly notify each other of material concerns about an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency, and share appropriate information relating to such concerns.

(e) Disclosure prohibited

Neither the Fund nor the appropriate Federal banking agency shall disclose confidential information obtained pursuant to this section from any party without the written consent of that party.

(f) Privilege maintained

The Fund, the appropriate Federal banking agency, and any other party providing information under this section shall not be deemed to have waived any privilege applicable to any information or data, or any portion thereof, by providing such information or data to the other party or by permitting such data or information, or any copies or portions thereof, to be used by the other party.

(g) Exceptions

Nothing in this section shall authorize the Fund or the appropriate Federal banking agency to withhold information from the Congress or prevent it from complying with a request for in-

formation from a Federal department or agency in compliance with applicable law.

(h) Sanctions

(1) Notification

The Fund shall notify the appropriate Federal banking agency before imposing any sanction pursuant to the authority in section 4707(f)(2)(C) of this title on an insured community development financial institution or other institution that is examined by or subject to the reporting requirements of that agency.

(2) Exceptions

The Fund shall not impose a sanction referred to in paragraph (1) if the appropriate Federal banking agency, in writing, not later than 30 calendar days after receiving notice from the Fund—

- (A) objects to the proposed sanction;
- (B) determines that the sanction would—
 - (i) have a material adverse effect on the safety and soundness of the institution; or
 - (ii) impede or interfere with an enforcement action against that institution by that agency;
- (C) proposes a comparable alternative action; and
- (D) specifically explains—
 - (i) the basis for the determination under subparagraph (B) and, if appropriate, provides documentation to support the determination; and
 - (ii) how the alternative action suggested pursuant to subparagraph (C) would be as effective as the sanction proposed by the Fund in securing compliance with this subchapter and deterring future non-compliance.

(i) Safety and soundness considerations

The Fund and each appropriate Federal banking agency shall cooperate and respond to requests from each other and from other appropriate Federal banking agencies in a manner that ensures the safety and soundness of the insured community development financial institution or other institution that is examined by or subject to the reporting requirements of an appropriate Federal banking agency.

(Pub. L. 103-325, title I, § 116, Sept. 23, 1994, 108 Stat. 2185.)

§ 4716. Studies and reports; examination and audit

(a) Annual report by Fund

The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions and other organizations assisted pursuant to this subchapter, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (f).

(b) Optional studies

The Fund may conduct such studies as the Fund determines necessary to further the pur-

pose of this subchapter and to facilitate investment in distressed communities. The findings of any studies conducted pursuant to this subsection shall be included in the report required by subsection (a).

(c) Native American lending study

(1) In general

The Fund shall conduct a study on lending and investment practices on Indian reservations and other land held in trust by the United States. Such study shall—

- (A) identify barriers to private financing on such lands; and
- (B) identify the impact of such barriers on access to capital and credit for Native American populations.

(2) Report

Not later than 12 months after the date on which the Administrator is appointed, the Fund shall submit a report to the President and the Congress that—

- (A) contains the findings of the study conducted under paragraph (1);
- (B) recommends any necessary statutory and regulatory changes to existing Federal programs; and
- (C) makes policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and other private sector capital institutions to better serve such populations.

(d) Investment, governance, and role of Fund

Thirty months after the appointment and qualification of the Administrator, the Comptroller General of the United States shall submit to the President and the Congress a study evaluating the structure, governance, and performance of the Fund.

(e) Consultation

In the conduct of the studies required under this section, the Fund shall consult, as appropriate, with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Federal Housing Finance Agency, the Farm Credit Administration, the Director of the Office of Thrift Supervision, the National Credit Union Administration Board, Indian tribal governments, community reinvestment organizations, civil rights organizations, consumer organizations, financial organizations, and such representatives of agencies or other persons, at the discretion of the Fund.

(f) Examination and audit

The financial statements of the Fund shall be audited in accordance with section 9105 of title 31, except that audits required by section 9105(a) of such title shall be performed annually.

(Pub. L. 103-325, title I, § 117, Sept. 23, 1994, 108 Stat. 2187; Pub. L. 110-289, div. A, title II, § 1216(b), July 30, 2008, 122 Stat. 2792.)

Editorial Notes

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-289 substituted “Federal Housing Finance Agency” for “Federal Housing Finance Board”.