118TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
118–644

CDFI FUND TRANSPARENCY ACT

AUGUST 30, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. MCHENRY, from the Committee on Financial Services, submitted the following

REPORT

[To accompany H.R. 3161]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 3161) to amend the Riegle Community Development and Regulatory Improvement Act of 1994 to require the Director of the Community Development Financial Institutions Fund to testify on an annual basis before the Financial Services Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

49–006

SECTION 1. SHORT TITLE.

This Act may be cited as the "CDFI Fund Transparency Act".

SEC. 2. REQUIREMENT TO TESTIFY ANNUALLY.

Section 104(b) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4703(b)) is amended by adding to the end the following:

"(5) ANNUAL TESTIMONY.—The Secretary of the Treasury (or a designee of the Secretary) shall, at the discretion of the Chair of the Financial Services Committee of the House of Representatives and the Chair of the Banking, Housing, and Urban Affairs Committee of the Senate, annually testify before such committees (or a subcommittee of such committees) regarding—

"(A) the operations of the Fund during the previous year;

"(B) steps the Secretary and the Fund are taking to support the work of community development financial institutions participating in the State Small Business Credit Initiative;

"(C) steps the Secretary and the Fund are taking to support community development financial institutions, including those that are minority depository institutions, through the financial agent mentor-protégé program;

"(D) how community development financial institutions, including minority depository institutions, that received amounts provided in the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 have used and are using such amounts; and

"(E) any steps the Secretary and the Fund are taking to—

"(i) support minority lending institutions, including minority depository institutions, through coordination with prudential regulators to promote and preserve minority depository institutions pursuant to section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

"(ii) address technology challenges facing community development financial institutions, including those that are minority depository institutions;

"(iii) incentivize community development financial institutions to provide start-up capital for young entrepreneurs;

"(iv) raise public awareness about community development financial institutions and minority depository institutions, including providing a searchable map with institution locations;

"(v) coordinate with regulators to ensure certification and reporting requirements are appropriately streamlined for community development financial institutions; and

"(vi) explore securitization options that might help expand the reach of community development financial institutions.".

PURPOSE AND SUMMARY

Introduced on May 9, 2023, by Representative John Rose, H.R. 3161, the *CDFI Fund Transparency Act*, would amend the Riegle Community Development and Regulatory Improvement Act of 1994 to require the Director of the Community Development Financial Institutions (CDFI) Fund to testify on an annual basis before the Financial Services Committee of the House of Representatives and the Banking, Housing, and Urban Affairs Committee of the Senate.

BACKGROUND AND NEED FOR LEGISLATION

Accountability breeds responsibility. The CDFI fund plays a critical role in ensuring that access to credit and capital is available to all communities. CDFI certification is designated by the CDFI Fund to financial institutions that serve low income or economically distressed areas. According to Treasury, there are approximately 1,500 CDFIs in all 50 states, the District of Columbia, Guam, and Puerto Rico, with total assets exceeding $300 billion. The accountability provided by regular hearings will allow for congressional oversight and ability to respond to emerging issues involving the CDFI Fund.

Related Hearing

Pursuant to clause 3(c)(6) of rule XIII, the following hearing was used to develop H.R. 3161: The Subcommittee on Financial Institutions and Monetary Policy of the Committee on Financial Services held a hearing on March 7, 2024, titled “Politicized Financial Regulation and its Impact on Consumer Credit and Community Development.”

Committee Consideration

The Committee on Financial Services met in open session on May 16, 2024, and ordered H.R. 3161 as amended to be reported favorably to the House by a voice vote, a quorum being present. Before the question was called to order the bill favorably reported, the Committee adopted an amendment in the nature of a substitute offered by Mr. Rose by voice vote.

Committee Votes

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the order to report legislation and amendments thereto. H.R. 3161 as amended was ordered reported favorably to the House by voice vote, a quorum being present.

An amendment offered by Ms. Velázquez, no. 1, was agreed to by a voice vote, a quorum being present.

An amendment offered by Mrs. Beatty, no. 2, was agreed to by a voice vote, a quorum being present.

An amendment offered by Ms. Waters, no. 3, was agreed to by a voice vote, a quorum being present.

Committee Oversight Findings

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

Performance Goals and Objectives

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 3161 is to strengthen congressional oversight and accountability, including the ability to respond to emerging issues, of the CDFI Fund.

Congressional Budget Office Estimates

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 3161, CDFI Fund Transparency Act As ordered reported by the House Committee on Financial Services on May 16, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	*	not estimated

Increases *net direct spending* in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	No
		Mandate Effects	
Increases *on-budget deficits* in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

* = between zero and $500,000.

H.R. 3161 would require the Secretary of the Treasury, or designee, to testify annually before the Congress about the Community Development Financial Institutions Fund, including its operations in the previous year and steps the department and fund are taking to support financial institutions that aid community development.

Because the Secretary of the Treasury regularly testifies before the Congress, CBO estimates that implementing H.R. 3161 would not have a significant cost. Any related spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Margot Berman. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1973.

FEDERAL MANDATES STATEMENT

Pursuant to section 423 of the Unfunded Mandates Reform Act, the Committee adopts as its own the estimate of the Federal mandates prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

Applicability to Legislative Branch

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

Earmark Identification

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

Duplication of Federal Programs

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes a program of the Federal Government known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of the Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

Section-by-Section Analysis of the Legislation

Section 1. Short title

Section 2. Requirement to testify

This section would establish a requirement for the Secretary of the Treasury (or a designee of the Secretary) to annually testify before such committees (or a subcommittee of such committees) regarding the operations of the CDFI Fund during the previous year.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

RIEGLE COMMUNITY DEVELOPMENT AND REGULATORY IMPROVEMENT ACT OF 1994

* * * * * * *

TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

Subtitle A—Community Development Banking and Financial Institutions Act

* * * * * * *

SEC. 104. 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 Financial Institutions Fund that shall have the duties and responsibilities specified by this subtitle and subtitle B of title II. 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 subtitle.

(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. 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, United States Code. 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 the date of enactment of this Act, 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, United States Code, 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) ANNUAL TESTIMONY.—The Secretary of the Treasury (or a designee of the Secretary) shall, at the discretion of the Chair of the Financial Services Committee of the House of Representatives and the Chair of the Banking, Housing, and Urban Affairs Committee of the Senate, annually testify before such committees (or a subcommittee of such committees) regarding—

(A) the operations of the Fund during the previous year;

(B) steps the Secretary and the Fund are taking to support the work of community development financial institu-

tions participating in the State Small Business Credit Initiative;

(C) steps the Secretary and the Fund are taking to support community development financial institutions, including those that are minority depository institutions, through the financial agent mentor-protégé program;

(D) how community development financial institutions, including minority depository institutions, that received amounts provided in the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 have used and are using such amounts; and

(E) any steps the Secretary and the Fund are taking to—

(i) support minority lending institutions, including minority depository institutions, through coordination with prudential regulators to promote and preserve minority depository institutions pursuant to section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989;

(ii) address technology challenges facing community development financial institutions, including those that are minority depository institutions;

(iii) incentivize community development financial institutions to provide start-up capital for young entrepreneurs;

(iv) raise public awareness about community development financial institutions and minority depository institutions, including providing a searchable map with institution locations;

(v) coordinate with regulators to ensure certification and reporting requirements are appropriately streamlined for community development financial institutions; and

(vi) explore securitization options that might help expand the reach of community development financial institutions.

(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 subtitle and subtitle B of title II;

(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 subtitle and subtitle B of title II;

(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 subtitle and subtitle B of title II;

(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 con-

sent 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 subtitle and subtitle B of title II 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 chapter 10 of title 5, United States Code, except that section 1013 of title 5, United States Code, 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 subtitle. 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 chapter 10 of title 5, United States Code.

(8) COSTS AND EXPENSES.—The Fund shall provide to the Board all necessary staff and facilities.

(f) GOVERNMENT CORPORATION CONTROL ACT EXEMPTION.—Section 9107(b) of title 31, United States Code, shall not apply to deposits of the Fund made pursuant to section 108.

(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 subtitle 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.

(j) ASSISTED INSTITUTIONS NOT UNITED STATES INSTRUMENTALITIES.—A community development financial institution or other organization that receives assistance pursuant to this subtitle 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, United States Code, 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) DEFINITION.—For purposes of this subsection, the term "transition period" means the period beginning on the date of enactment of this Act and ending on the date on which the Administrator is appointed.

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