

**Community Development
Capital Initiative**

**CDFI Bank/Thrift
Senior Preferred Stock**

Summary of CDCI Senior Preferred Terms

- Issuer:** A qualifying financial institution (“QFI”) that is (i) any U.S. bank or U.S. savings association not controlled by a Bank Holding Company (“BHC”) or Savings and Loan Holding Company (“SLHC”); (ii) any top-tier U.S. BHC, (iii) any top-tier U.S. SLHC which engages solely or predominately in activities that are permitted for financial holding companies under relevant law; or (iv) any U.S. bank or U.S. savings association controlled by a U.S. SLHC that does not engage solely or predominately in activities that are permitted for financial holding companies under relevant law, excluding Subchapter S corporations and mutual organizations; provided, that, in each case, (i) the QFI collectively with all of its affiliates satisfies the requirements of 12 C.F.R. 1805.200(b); (ii) the QFI or an affiliate thereof is a regulated community development financial institution (“CDFI”) currently certified by the Community Development Financial Institution Fund (the “Fund”) of the United States Department of the Treasury (“UST”) pursuant to 12 C.F.R. 1805.201(a) as having met the eligibility requirements of the Fund’s Community Development Financial Institutions Program (the QFI or, if the QFI itself is not currently certified by the Fund as a CDFI, any affiliate that is currently certified by the Fund as a CDFI, each, a “Certified Entity”); and (iii) the QFI shall not be any BHC, SLHC, bank or savings association controlled (within the meaning of 12 U.S.C. 1841(a)(2) and 12 C.F.R. 225(a)(i) in the case of BHCs and banks; and 12 U.S.C. 1467a (a)(2) and 12 C.F.R. 583.7 in the case of SLHCs and savings associations) by a foreign bank or company. For purposes of this program, “U.S. bank”, “U.S. savings association,” “U.S. BHC” and “U.S. SLHC” means a bank, savings association, BHC or SLHC organized under the laws of the United States or any State of the United States, the District of Columbia, any territory or possession of the United States, Puerto Rico, Northern Mariana Islands, Guam, American Samoa, or the Virgin Islands. **UST will determine the eligibility and allocation of funds for each QFI after consultation with the appropriate federal banking agency.**
- Initial Holder:** UST.
- Security:** Senior preferred stock (the “CDCI Senior Preferred”), liquidation preference \$1,000 per share. Depending upon each QFI’s available authorized preferred shares, UST may agree to purchase CDCI

Senior Preferred with a higher liquidation preference per share, in which case UST may require the QFI to appoint a depository to hold the CDCI Senior Preferred and issue depository receipts.

Size:

Each QFI may issue CDCI Senior Preferred having an aggregate capital amount (the “Maximum Investment Amount”) equal to not more than five percent (5%) of (i), if the QFI is a Certified Entity the risk-weighted assets (“RWA”) of the QFI, or (ii), if the QFI is not a Certified Entity, the sum of the RWAs of each of the Certified Entities, in each case less the aggregate capital or, as the case may be, principal amount of any outstanding TARP assistance of the QFI.

Any QFI that, in applying to qualify for this program, is determined by its primary regulators to require additional capital in order to be a “viable” financial institution, shall be required to receive capital (“Private Capital”) from one or more private, non-government investors prior to or concurrently with any purchase of CDCI Senior Preferred by UST, such that the sum of the Private Capital and the amount of CDCI Senior Preferred issued to such QFI under this program shall be sufficient to establish the QFI’s “viability” on a pro-forma basis. Such QFI receiving Private Capital shall only be eligible to issue CDCI Senior Preferred in an aggregate amount equal to, on a dollar-for-dollar basis, the amount of Private Capital it received; provided that the amount of CDCI Senior Preferred issued shall not be greater than the Maximum Investment Amount; provided further that any Private Capital shall be subordinate to the CDCI Senior Preferred, on terms satisfactory to UST.

QFIs currently participating in the UST Capital Purchase Program (“CPP”) that issued preferred stock to UST may apply to exchange the entirety of their existing CPP preferred stock for CDCI Senior Preferred as set forth herein.¹ Additionally, such QFIs may, but shall not be required to, apply to issue CDCI Senior Preferred to UST in an aggregate capital amount up to the positive difference, if any, between (i) (x), if the QFI is a Certified Entity, five percent (5%) of the RWA of the QFI or (y), if the QFI is not a Certified Entity, five percent (5%) of the sum of the RWAs of each of the Certified Entities and (ii) the aggregate liquidation preference of any outstanding (x) preferred stock issued under CPP and (y) CDCI Senior Preferred; provided, however, with respect to either an

¹ Applications for exchanges of CPP preferred stock for CDCI Senior Preferred shall be made on a different application form than applications for new issuances of CDCI Senior Preferred. Applications solely to exchange CPP preferred stock for CDCI Senior Preferred shall not be required to be reviewed by the primary regulators of the applying QFI.

exchange or new issuance, (i) the QFI has not breached any representation, warranty or covenant set forth in the documents governing the CPP preferred stock or its sale to UST; and (ii)(x) with respect to cumulative CPP preferred stock, the QFI has paid, as of the closing date of this investment, all accrued and unpaid dividends or interest and (y) with respect to non-cumulative CPP preferred stock, the QFI has paid, as of the closing date of this investment, the amount of any unpaid dividends or interest for the fiscal quarter prior to the closing date plus the accrued and unpaid dividends or interest as of the closing date for the fiscal quarter in which the closing shall occur.

RWA, for purposes hereunder, shall be as of the most recent fiscal quarter ended.

Ranking: Senior to common stock and *pari passu* with existing or future authorized or issued preferred shares but senior to preferred shares which by their terms rank junior to any existing or future authorized or issued preferred shares.

Regulatory Capital Status: Tier 1.

Term: Perpetual.

Dividend Rate: Two percent (2%) per annum until the eighth (8th) anniversary of the closing date of this investment and thereafter at a rate of nine percent (9%) per annum.

Dividends shall be payable quarterly in arrears on February 15, May 15, August 15 and November 15 of each year. Dividends shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dividend Form: For each QFI that is a BHC or SLHC, the CDCI Senior Preferred shall pay cumulative dividends. For each QFI that is not a BHC or SLHC, the CDCI Senior Preferred shall pay non-cumulative dividends.

Redemption: The CDCI Senior Preferred may be redeemed, in whole or in part, at any time and from time to time, at the option of the QFI, subject to the approval of the QFI's primary federal bank regulator. All redemptions of the CDCI Senior Preferred shall be at 100% of its liquidation preference, plus (i) in the case of cumulative CDCI Senior Preferred, any accrued and unpaid dividends and (ii) in the case of non-cumulative CDCI Senior Preferred, accrued and unpaid dividends for the then current dividend period (regardless of whether any dividends are actually declared for such dividend period).

Restrictions on Dividends and Repurchases:

For as long as any CDCI Senior Preferred is outstanding, no dividends may be declared or paid on junior preferred shares, preferred shares ranking *pari passu* with the CDCI Senior Preferred (other than in the case of *pari passu* preferred shares, dividends payable on a pro rata basis with the CDCI Senior Preferred), or common shares, nor may the QFI repurchase or redeem any junior preferred shares, preferred shares ranking *pari passu* with the CDCI Senior Preferred or common shares (other than (i) repurchases of the CDCI Senior Preferred and (ii) repurchases of junior preferred shares or common shares in connection with any benefit plan in the ordinary course of business consistent with past practice), unless (i) in the case of cumulative CDCI Senior Preferred, all accrued and unpaid dividends on the CDCI Senior Preferred are paid in full or (ii) in the case of non-cumulative CDCI Senior Preferred, the full dividend for the latest completed dividend period shall have been declared and paid in full.

Further Restrictions on Dividend Increases:

For so long as any CDCI Senior Preferred is outstanding, no increase in dividends per share or distributions on common stock, preferred stock ranking junior or *pari passu* to the CDCI Senior Preferred or other equity securities of the QFI or its subsidiaries shall be permitted; provided that no increase in dividends may be made as a result of any dividend paid in common shares, any stock split or similar transaction.

Additional Restrictions on Dividends and Repurchases:

From and after the eighth (8th) anniversary of the closing date of this investment, the QFI shall be prohibited from paying dividends or making distributions on or repurchasing any equity securities or trust preferred securities issued by the QFI or any affiliate (other than (i) redemptions or repurchases of the CDCI Preferred Shares, (ii) regular dividends on shares of preferred stock in accordance with the terms thereof and which are permitted under the terms of the CDCI Senior Preferred or (iii) dividends or distributions by any wholly-owned subsidiary of the QFI) without UST's consent, unless the CDCI Senior Preferred are (x) redeemed in whole or (y) no longer held by UST or any of its affiliates. These restrictions are in addition to the restrictions on share repurchases of junior preferred shares, preferred shares ranking *pari passu* with the CDCI Senior Preferred, or common shares set forth above under "Restrictions on Dividends and Repurchases."

Voting rights:

The CDCI Senior Preferred shall be non-voting, other than class voting rights on (i) any authorization or issuance of capital shares

ranking senior to the CDCI Senior Preferred, (ii) any amendment to the rights of CDCI Senior Preferred, or (iii) any merger, exchange, dissolution or similar transaction which would adversely affect the rights of the CDCI Senior Preferred. If dividends payable on the CDCI Senior Preferred are not paid in full for eight (8) dividend periods, whether or not consecutive, the holders of the CDCI Senior Preferred will have the right to elect two (2) directors. The right to elect directors will end when dividends have been paid in full for four (4) consecutive dividend periods.

Transferability: The CDCI Senior Preferred shall not be subject to any contractual restrictions on transfer.

Closing Conditions: The obligation of UST to purchase or otherwise acquire any CDCI Senior Preferred shall be subject to the satisfaction of customary closing conditions, including, among other things, (i) the QFI having not breached any representation, warranty or covenant set forth in the documents governing any obligations of such QFI then outstanding under the Troubled Asset Relief Program (“TARP Obligations”), including any CPP preferred stock, as determined by UST; (ii) all amounts then due and payable under any of the QFI’s TARP Obligations have been paid in full; and (iii), with respect to any CDCI Senior Preferred not acquired through the exchange of outstanding CPP preferred stock, (x) receipt of approval from the QFI’s appropriate federal banking agency for the issuance of the CDCI Senior Preferred and (y) the satisfaction of any conditions for such issuance imposed by such appropriate federal banking agency in connection with granting such approval.

Transfer of Proceeds to Certified Entities: Each QFI that is not a Certified Entity shall be required to immediately transfer any proceeds it receives in connection with the sale of the CDCI Senior Preferred to its related Certified Entities as capital contributions.²

CDFI Covenants: Each QFI shall covenant that (i) the Fund has not withdrawn or qualified its certification that the Certified Entities meet the requirements of 12 C.F.R. 1805.200(b) and 1805.201(b)(1)-(6), (ii) it and all of its affiliates collectively meet the eligibility requirements of 12 C.F.R. 1805, (iii) each Certified Entity’s primary mission is

² QFIs shall not be required to transfer any funds to any Certified Entity in connection with an exchange of CPP preferred stock for CDCI Senior Preferred.

promoting community development, as may be determined by UST from time to time based on the criteria set forth in 12 C.F.R.

1805.201(b)(1), (iv) each Certified Entity's predominant business activity is the provision, in arms-length transactions, of "Financial Products", "Development Services" and/or other similar financing, (v) each Certified Entity serves a "Target Market" by serving one or more "Investment Areas" and/or "Targeted Populations" as may be determined by UST from time to time substantially in the manner set forth in 12 C.F.R. 1805.201(b)(3), (vi) each Certified Entity directly, through an affiliate, or through a contract with another provider, provides "Development Services" in conjunction with its "Financial Products", (vii) each Certified Entity maintains accountability to residents of its "Investment Area(s)" or "Targeted Population(s)" through representation on its governing board or directors or otherwise and (viii) each Certified Entity is not an agency or instrumentality of the United States, or any State or political subdivision thereof, as described in 12 C.F.R. 1805.201(b)(6). The terms "Financial Products", "Development Services", "Target Market", "Investment Areas" and "Targeted Populations" are used herein in the same manner as such terms are used in 12 C.F.R. 105.201(b).

Each QFI shall also deliver to UST (x) on the date that is 180 days after the closing date of this investment, and (y) annually at the end of each fiscal year of such QFI (i) reports and other documents sufficient to evidence each Certified Entity's status as a CDFI including documentation evidencing its ongoing compliance with the Fund's requirements for CDFIs and (ii) a certification that such QFI and each Certified Entity remains in compliance with the foregoing covenants. Additionally, each QFI shall be required to notify UST immediately of any breach of the foregoing covenants.

Remedies for breaches of the foregoing covenants shall be set forth in the definitive documentation for the CDCI Senior Preferred.

**Access and
Information:**

So long as UST or any of its affiliates holds CDCI Senior Preferred having a liquidation preference of at least ten percent (10%) of its initial investment, each QFI shall permit UST and its agents, consultants, contractors and advisors (x), acting through the QFI's appropriate federal banking agency, or otherwise to the extent necessary to manage, evaluate or transfer UST's investment, to examine its corporate books and make copies thereof and to discuss the affairs, finances and accounts of such QFI with the principal officers of such QFI upon reasonable notice and at such reasonable times and as often as UST may reasonably request and (y) to review any information material to UST's investment provided by such QFI to its appropriate federal banking agency.

At any time that any CDCI Senior Preferred is outstanding, each QFI shall deliver to UST (i) annually at the end of each fiscal year of such QFI, an audited (to the extent available) consolidated balance sheet of such QFI as of such fiscal year, and audited consolidated statements of income, retained earnings and cash flows of such QFI for such year, prepared in accordance with GAAP and setting forth in each case in comparative form the figures for the previous fiscal year; and (ii) copies of any quarterly reports provided to other equity holders of such QFI or the QFI's management. Additionally, to the extent a QFI receives an assessment on its internal controls from its auditors at any time during any period in which UST or any of its affiliates holds CDCI Senior Preferred, a copy of such assessment shall also be delivered to UST.

On an annual basis during any period in which UST or any of its affiliates holds CDCI Senior Preferred, each QFI shall be required to complete and deliver to UST a survey, in a form specified by UST, describing, among other things, how it has utilized the capital it received in connection with the issuance of the CDCI Senior Preferred and the effects of such capital on the operations and status of the QFI.

**Transparency,
Executive
Compensation and
Employ American
Workers Act:**

Each QFI and its subsidiaries shall take all necessary action to ensure that it and its executive officers, respectively, are in compliance with (i) all UST guidelines regarding transparency, reporting and monitoring; (ii) Section 111 of the EESA, as implemented by the TARP Standards for Compensation and Corporate Governance set forth in 31 C.F.R. Part 30; (iii) the provisions of the Employ American Workers Act (Section 1611 of Division A, Title XVI of the American Recovery and Reinvestment Act of 2009), Public Law No. 111-5, effective as of February 17, 2009; and (iv), in the case of (ii) and (iii), all rules, regulations and guidance issued thereunder.

Affiliate Transactions:

For as long as UST or any of its affiliates holds any debt or equity securities (including the CDCI Senior Preferred) of the QFI, the QFI and its subsidiaries will not enter into a transaction with related persons (within the meaning of Item 404 under the SEC's Regulation S-K) unless such transaction is (i) on terms no less favorable to the QFI and its subsidiaries than could be obtained from an unaffiliated third party, and (ii) has been approved by the audit committee or a comparable body of independent directors of the QFI, or if there are no "independent directors," the board of directors

of the QFI but only if the board of directors maintains written documentation supporting its determination that the transaction meets the requirements of (i) of this paragraph.

Warrant:

Subject to the requirements of Section 113(d)(3)(A) of the Emergency Economic Stabilization Act, QFIs participating in this program shall not be required to issue warrants to UST.