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**Written Testimony of Frank Altman
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**Before the
Housing, Transportation, and Community Development Subcommittee
Committee on Banking, Housing, and Urban Affairs
United States Senate
January 5, 2022**

Thank you Chair Smith, Ranking Member Rounds, and distinguished members of the Subcommittee, I am pleased to participate in this important hearing to discuss the role of Community Development Financial Institutions (CDFIs) in supporting underserved communities.

My name is Frank Altman. I am CEO of Community Reinvestment Fund, USA (CRF), a national CDFI based in Minneapolis, Minnesota that I founded in 1988. I serve on the Board of Directors of the New Markets Tax Credit (NMTC) Coalition of which I was a founding member and first President. I also serve on the San Francisco Federal Reserve Bank's Advisory Board of the Center for Community Development Investments and am an advisor to the Social Innovation Initiative at Brown University in Providence, RI. I am an active member of The Financial Innovations Roundtable and the US SIF: Forum for Sustainable and Responsible Investment.

I thank the members of this Subcommittee for their long-standing support of Community Development Financial Institutions (CDFI) Fund programs that organizations like CRF use to bring needed critical credit and resources to revitalize underserved, low-income and communities of color as well as rural areas.

I appreciate the opportunity to be with you today to reflect on the role CDFIs have played and continue to play working with and in underserved communities promoting economic revitalization and community development. This topic is both timely and important considering the vital role CDFIs performed as "first responders" supporting and sustaining underbanked and unbanked communities and small business owners during the COVID-19 pandemic.

The CDFI industry has developed and matured significantly since the CDFI Program was authorized 28 years ago - and in my testimony today I will focus on two very specific issues that Congress could address as part of a CDFI Fund modernization effort – **the process for certifying CDFIs and the CDFI Bond Guarantee Program**. Before turning to these two issues, let me provide some background on my organization.

Community Reinvestment Fund, USA

CRF was launched in 1988, six years before the bill creating the CDFI Fund was signed into law. Through my work at the Minnesota Department of Energy and Economic Development, I saw the need to innovate new ways to bring capital to what were then called revolving loan funds, the forerunners of today's CDFIs, that were fundamental to the premise on which CRF was founded. Initially, purchasing community development assets from local nonprofits and



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development lenders, CRF has become a national organization with over \$160 million in assets and a staff of 76 people. Our mission is *to improve lives and strengthen communities through innovative financial solutions.*

In 2009, CRF was certified as a Community Development Financial Institution (CDFI), and in this capacity we actively work to channel resources from the capital markets to support community economic development efforts and help mission-driven organizations improve efficiency and build capacity. For the past 33 years we have worked with community partners, investors, foundations, and financial institutions to deliver more than \$3.5 billion in loans, investments, and bonds, resulting in the creation or preservation of 156,300 jobs, the financing of nearly 19,600 affordable housing units and funding for a wide range of community facilities. Since its inception, CRF has funded more than 9,300 small business loans, two-thirds of which were made to businesses owned by women or people of color. CRF has deployed resources in more than 1,000 mostly low-income communities in all 50 states and the District of Columbia serving more than 2.3 million people.

Widely known as a financial innovator with expertise in adapting financing tools to connect underserved communities to new sources of capital, CRF pioneered the creation of the first secondary market for small business and affordable housing loans. We were the first to tap the capital markets issuing asset-backed securities collateralized by community development loans. Our securities have been purchased by mainstream institutional investors (banks, pension funds, and insurance companies) to support projects and businesses serving low-income people and distressed communities.¹

CRF actively participates in three CDFI Fund programs: the Financial Assistance Program, including the Rapid Response Program, the New Markets Tax Credit Program and the CDFI Bond Guarantee Program. We have received six Financial Assistance Awards and a Rapid Response grant which we are using to support our small business lending activities. Together with its wholly-owned affiliate, National New Markets Tax Credit Fund, Inc., (NNMTCF), CRF has received \$919.5 million in tax credits all of which have been deployed as flexible loans for both non-profit and for-profit operating businesses located in low-income communities across the country. In 2013, CRF was named the first Qualified Issuer (QI) for the CDFI Bond Guarantee Program. Since 2014, we have issued \$940 million in bonds on behalf of eight CDFIs in seven funding rounds.

CRF is also a seasoned Small Business Administration (SBA) 7(a) lender through its subsidiary, CRF Small Business Loan Company. Since 2012, CRF is one of three CDFIs to become a national non-depository 7(a) lender, of which there are only 14 in the country. We use this guaranteed loan product to fund BIPOC and other underserved entrepreneurs, including women, veterans and small businesses located in low- and moderate-income (LMI) areas. To date, we have financed more than ***\$1 billion in SBA 7(a) and PPP loans combined.*** As a Preferred Lender in

¹ Since 1989, CRF has issued 19 series of Notes totaling \$284.7 million backed by community development loans. Three of our debt offerings totaling \$176 million have been rated and all of which included a senior tranche rated "AAA" by Standard & Poor's. We have also issued three series of Notes backed by multifamily affordable housing loans, including one Standard & Poor's rated issue totaling \$84.9 million, backed by 45 multifamily affordable housing loans.



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the 7(a) program, CRF has been ranked among the top lenders nationally and has originated in excess of 580 7(a) loans for more than \$312.8 million creating or retaining nearly 13,200 jobs.

Our Work in the Twin Cities and in the Pandemic

Historically, CRF has used its financing expertise and resources to partner with Twin Cities-based organizations building trust and bringing the voice of the community into our work. For example, we collaborated with local banks to make more than 100 subordinate loans to support businesses along Franklin Avenue and Lake Street in the Phillips and Powderhorn Park neighborhoods. This lending sparked the revitalization of these neighborhoods resulting in a 62% decline in crime rates from 1998 – 2009 and an increase in property values that exceeded the City average.

Our lending activities in these neighborhoods laid the groundwork for a major redevelopment project known as the Midtown Exchange. Using New Markets Tax Credits, CRF partnered with two other tax credit recipients to finance the Allina Commons which included the historic Sears building, with more than 2 million square feet that sat vacant in downtown Minneapolis for more than ten years. This building became the centerpiece of the City's strategy for reviving one of its most economically distressed areas. The renovated and expanded building houses the headquarters for Allina Health, a not-for-profit health care system based in Minneapolis.

Tragically, George Floyd was murdered in the Powderhorn Park neighborhood and much of the progress made here has been erased. In response, we supported a Corridor Rebuild and Reimagine effort in partnership with the Lake Street Council in 2020 to disburse grant funds to help Lake Street Corridor businesses recover from damages incurred from civil unrest. We are also a member of the Catalyst Coalition, an on-going collaboration among six mission-driven organizations led by people of color working to develop a supportive business ecosystem for underserved entrepreneurs in the Twin Cities.

When COVID-19 hit, CRF, along with other CDFIs, became a "first responder" utilizing three unique capabilities that allowed us to assist thousands of small businesses in the wake of this disaster. Working with 47 community partners from across the country, **including Four Bands Community Loan Fund**, we utilized our deep SBA lending expertise, and two innovative technology platforms we developed. The first platform, called **Connect2Capital (C2C)**, seamlessly matches small businesses with responsible loan products offered by a network of more than 80 CDFIs. To date more than \$200 million has been funded through this platform. The second platform, known as **SPARK**, offers transformative loan origination software which enabled its customers to originate \$8.9 billion in Paycheck Protection Program (PPP) loans during multiple funding rounds. CDFIs were among the lenders using **SPARK** and were able to originate 14,562 PPP loans worth more than \$1 billion. CRF alone made \$700 million in PPP loans *with a median loan size of \$21,000* preserving 70,248 jobs. More than two hundred of our PPP loans went to small businesses and nonprofits in the Twin Cities, 69% are either led or owned by BIPOC (Black, Indigenous and People of Color) individuals or located in low- or moderate-income census tracts.

CRF has also engaged in local relief lending programs. In 2020, we also originated 1,700 loans totaling over \$43.8 million through an innovative Chicago recovery loan fund which retained 6,475 and created 3,144 jobs respectively.



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We are now participating in COVID recovery loan funds in 19 states and the District of Columbia, including the recently launched Minnesota Inclusive Growth Fund, an initiative of the Catalyst Coalition.

CDFI Fund and its Programs

The CDFI Fund was established more than 25 years ago with a mission to **expand economic opportunity for underserved people and communities by supporting the growth and capacity of a national network of community development lenders, investors, and financial service providers**. The vision of the CDFI Fund is to economically empower America's underserved and distressed communities by providing programs and resources to support this national network of CDFIs and their stakeholders. CDFIs share a common vision of expanding economic opportunity for those people and places left behind by mainstream financial institutions and to demonstrate that they can determine their own future and achieve prosperity.

During the past two and half decades, the CDFI industry has grown significantly from less than 200 organizations in 1996 to more than 1,000 certified CDFIs with support from the Fund's programs and resources. CDFIs play an important role in ensuring the long-term, sustained economic recovery of low-income and BIPOC communities. Using a relatively small amount of federal funds, CDFIs attract private capital and generate outsized impact in disinvested communities. However, as the economy confronts new challenges, the CDFI industry is at an inflection point. We are being asked to step up and scale our activities while reaching deeper to serve historically overlooked areas and underserved populations. This hearing affords an opportunity to look for ways to improve how the CDFI Fund and its programs can assist CDFIs in meeting current challenges and those that lie ahead.

I have focused my comments and policy recommendations today to two issues of particular importance to CRF and many other CDFIs. Both issues – once resolved – will significantly enhance CRF's ability, as well as that of other CDFIs, to reach additional underserved communities through collaboration with our peers, especially small and emerging CDFIs across the country. I also limited my recommendations to the existing suite of programs and initiatives administered by the CDFI Fund – including the CDFI certification process, the Bond Guarantee Program, and the New Markets Tax Credit. I hope the subcommittee will consider convening a hearing in the near future to discuss opportunities for the CDFI industry to access public capital markets (discussed below) and leverage the capacity of CDFIs as community-based agents of change.

Modernize CDFI Certification

I would like to call your attention to a pressing need at the CDFI Fund – undertaking revisions to its certification policies and procedures. This is an issue of particular importance to a national CDFI, like CRF for several reasons. As a nationwide organization employing a diverse set of lending and investment products and programs, we strongly support the Fund's stated goal of fostering "...a diversity of CDFI types, activities, and geographies, and to enable market-driven solutions to emerge in a constantly changing economic environment." The world in to which CDFIs were born in 1994 has changed in almost every conceivable way. Not only has the number of CDFIs grown significantly but the types of financing products and services offered have expanded dramatically. Competition from other financial service providers has increased exponentially while the technology used to deliver products and



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services has undergone a transformation comparable to that which occurred during the Industrial Revolution. Today many borrowers seek credit online rather than through conventional channels. To serve their customers, CDFIs must adopt new business models, new technology tools, while developing new partnerships and new ways of achieving their missions.

CDFI certification regulations and guidance are fundamental to the CDFI Fund's role of creating a national network of community development lenders. Under the current framework, an organization must meet a series of tests or requirements to be granted certification, including (but not limited to) having a primary mission of community development, being predominantly engaged in financing, and providing technical assistance to clients, serving one or more Target Markets² approved by the Fund and demonstrating accountability to their Target Markets through representation on governing and/or advisory boards. CDFIs are required to direct *at least 60 percent*³ of their lending or investing activities to their approved Target Market(s).

Certification has become a powerful capital raising instrument for CDFIs, allowing an organization to apply for grants from CDFI Fund programs as well as from a broad range of public and private funders. However, these regulations have largely remained unchanged since the Fund was established. Updating the Fund's certification framework is critical if CDFIs are to be financially sustainable and create meaningful impact in underserved communities, especially those that may be more difficult to reach, such as Native and rural areas. Modernizing certification policies and procedures will enable the CDFI industry to realize a path to scale. Without such a path it will be difficult – perhaps impossible – to make a meaningful difference in the lives of low-income people and places. We believe these policies and procedures can be reformed to provide CDFIs with more flexibility to support their clients, particularly small businesses, rather than preventing them from assisting worthy customers. Furthermore, these changes are essential to ensuring an equitable recovery from the pandemic.

The CDFI Fund's response to the coronavirus crisis provides a valuable precedent for the kind of flexibility many CDFIs, especially small business lenders, are seeking. In the early days of the pandemic CDFIs responded to desperate calls from BIPOC, rural and very small business owners unable to access the initial round of PPP loans because they lacked a banking relationship or needed help with the documentation requirements. The CDFI Fund provided administrative flexibility ensuring that these community-based “first responders” were not penalized for lending outside of their approved Target Market(s). This relief from certification guidance saved tens of thousands of small businesses, if not more. Without a waiver from the Fund,⁴ CDFIs could have violated certification requirements

² See CFR 12 §1805.104(II) Definition of a Target Market and CRF 12 §1805.201(b)(3) Certification as a Community Development Financial Institution. Target Markets consist of areas meeting specific distress criteria and/or Targeted Populations defined as individuals or an identifiable group of individuals, including an Indian Tribe, who are low-income persons or otherwise lack access to loans or equity investments. See Public Law 103-325, Riegle Community Development and Regulatory Improvement Act of 1994, September 23, 1994, Title I, Subtitle A, §103 Definitions (20).

³ CDFI Fund Expands Target Market Eligibility for Payroll Protection Program Lending; Message from the Director via email – December 9, 2020.

⁴ CDFI Fund Expands Target Market Eligibility for Payroll Protection Program Lending; Message from the Director via email – December 9, 2020; Target Market Waiver Extended for Lending under Round Three of Paycheck Protection Program; Program Update via email – January 27, 2021.



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running the risk of non-compliance or potentially de-certification at the moment their loans were needed most. The certification framework should promote the work of CDFIs not preclude them from carrying out their mission and commitment to serve customers who are experiencing enormous financial hardship.

To its credit, the CDFI Fund has recognized the need to reform the certification rules having issued a Request for Comment⁵ and proposed new certification documents⁶ which lay the groundwork for an updated framework. Unfortunately, Fund staff had to suspend these efforts to implement critical pandemic relief programs. Nevertheless, the existing certification rules are constraining organizations, like CRF, from meeting the pressing need for credit among small businesses and nonprofit customers across the country. Without the necessary changes, the current framework will continue to limit the ability of CDFIs to fully address the credit and capital needs of the most vulnerable populations and communities. When certification becomes an obstacle to economic opportunity for the people and places CDFIs serve then it is no longer fulfilling its intended purpose and must be revised.

We also wish to note that other federal programs, such as the Treasury Department's State Small Business Credit Initiative (SSBCI) envisions a role for CDFIs in deploying \$10 billion appropriated by the American Rescue Plan Act of 2021. States are allocated a portion of these funds to be used for loans and investments in small businesses. Given the enormous funding provided for this program and statutory mandates to reach socially and economically disadvantaged (SEDI) businesses as well as very small businesses, CDFIs will be essential to ensuring these resources reach historically marginalized firms. Yet, many states do not have CDFIs that can lend statewide, due to lack of capacity, Target Markets that do not align with state programs, or other factors. Several states are facing this situation and have invited CRF to originate loans under their SSBCI programs to augment local CDFI capacity. This program exemplifies CDFIs' need for increased flexibility to lend beyond their approved Target Markets if they are to participate effectively. The Fund should consider aligning its certification requirements with other federal programs.

Recommendations

Three critical changes to the certification framework would provide CDFIs with the flexibility to meet the needs of underserved communities more effectively. We have written extensively on all three changes outlined below in comment letters⁷ appended to this testimony.

⁵ Community Development Financial Institutions Fund Notice and Request for Comment on policies and procedures to certify an organization as a Community Development Financial Institution, Federal Register, Vol. 82 No. 5, January 9, 2017.

⁶ Request for Public Comment on CDFI Certification Application and Reporting Tools, May 6, 2020.

⁷ See CRF's Comment Letter on the CDFI Fund's Annual Certification and Data Collection Report Form, September 8, 2014; CRF's Comment Letter on the interim rule implementing the Community Development Financial Institutions Program (CDFI Program), October 26, 2015; CRF's Comment Letter on the Notice and Request for Information regarding the current policies and procedures to certify an organization as a Community Development Financial Institution (CDFI), March 10, 2017 and CRF's Comment Letter on Comments on Notice and Request for Public Comment on proposed CDFI Certification Requirements and Documents, November 4, 2020.



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1) Establish and approve a National Investment Area (IA)⁸ Target Market that includes eligible census tracts anywhere in country.

In its proposed certification documents,⁹ the Fund recommended removing geographic boundaries on most types of Target Markets, including those comprised of Investment Areas and some Targeted Populations. This change acknowledges how technology has enabled CDFIs to deliver financial products across larger geographic areas including low- and moderate-income communities. Allowing CDFIs to make loans in eligible areas outside of their approved Target Markets, would stimulate the flow of credit to small businesses and other borrowers in underserved communities, such as Native and rural areas. This change also reflects the nature of small business lending where demand may vary depending on local lending conditions and the needs of individual firms. CDFIs *must* have the ability to respond to credit demand from clients located in underserved areas as it arises *not* solely based on geographic restrictions determined by past lending activities.

2) Create clear guidance qualifying loans to Low-Income Targeted Population (LITP) Target Market.¹⁰

Many CDFIs are certified to serve Low-Income Targeted Populations (LITP). Typically, CDFIs qualify loans serving this type of Target Market by “looking through” the project to the “end beneficiaries” of their financing activities. For example, a loan to develop a multifamily affordable housing project using a government program, like the Low-Income Housing Tax Credit (LIHTC), qualifies as serving a LITP based on program requirements mandating that a certain percentage of the housing units be rented to low-income families. Similarly, a CDFI making a loan to a charter school, or a community health center may use proxies, such as the number of students receiving free or reduced lunches or the number of Medicaid eligible patients, to verify the financing is serving low-income people.

Small business lenders have a particular challenge because there is no commonly used proxy for loans serving low-income persons. In the absence of clear guidance, each CDFI has established its own approach and metrics for qualifying their small business loans based on information demonstrating (1) the business owner is a low-income person; (2) the business is hiring low-income people; (3) the business provides jobs accessible to people with limited skills or education; or (4) the employees are residents of low-income communities. The lack of CDFI Fund guidance means that no industry standard exists. Without the certainty that these methods would be acceptable under the current certification framework, CDFIs run the risk that the Fund could disallow these qualification methods. If this were to happen many CDFI small business lenders could fall out of compliance with the current rules or be required to use a different method, known as Census Block geocoding, described in the Fund’s certification Transaction Level Report.¹¹

⁸ Definition of an Investment Areas can be found at 12 CFR §1805.201 (b)(3)(ii) Certification as a Community Development Financial Institution.

⁹ Request for Public Comment on CDFI Certification Application and Reporting Tools, May 6, 2020.

¹⁰ Definition of a Low-Income Targeted Population Target Market can be found in the CDFI Certification Application Supplemental Guidance and Tips, updated February 12, 2019, pg. 32.

¹¹ <https://www.cdfifund.gov/sites/cdfi/files/documents/ctlr-final-may-2020.pdf>



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CDFIs serving LITP Target Markets must have a process for preserving the option to develop and use their own methods for qualifying loans directed to this type of Target Market. They should be permitted to submit to the Fund for approval well-established qualification methods that have allowed them to successfully serve low-income people without excessive reporting burdens. Furthermore, the practice of relying on long standing proxies must be maintained as an acceptable means of demonstrating loans are serving a LITP Target Market.

3) Develop Accountability Methods to enable (1) & (2).

The CDFI industry needs straightforward, practical ways of demonstrating accountability to their Target Markets. For CDFIs that means having reasonable representation on their governing and/or advisory boards that keep them informed about the credit needs of the businesses, nonprofits, individuals, and families in their approved Target Markets.

The CDFI Fund's revised CDFI Certification Application¹² does not require a geographic connection to satisfy board member accountability requirements which conforms with elimination of geographic boundaries for most Target Markets. Moreover, simplified accountability representation requirements for CDFI governing and advisory boards as well as allowing a board member to represent more than one Target Market will make it much easier for CDFIs to meet this certification test with a reasonable number of boards that are manageable in size. We eagerly await a proposed rule that clearly defines how a CDFI can be approved for and demonstrate accountability to a National Investment Area Target Market.

CDFIs need certification rules that foster and promote their mission-driven financing and technical assistance activities while providing certainty that they remain in good standing with the Fund. I *strongly urge* the members of this Subcommittee to encourage the CDFI Fund to work collaboratively with the CDFI industry to implement these revisions to ensure CDFIs can bring the promise of economic opportunity and realize a vision of a just economy for all.

CDFI Bond Guarantee Program

Enacted in 2010 as part of the Small Business Jobs Act (P.L. 111-240), the CDFI Bond Guarantee Program (BGP) was designed to address a pressing need for long-term, fixed-rate capital that CDFIs could use to finance essential larger scale projects in under-resourced urban, rural, and Native communities – including long-term care or health care facilities, childcare centers, charter schools, commercial space for expanding local businesses and nonprofit organizations as well as stabilization of at-risk owner-occupied housing. The BGP was specifically intended to address this gap, and is one of the few sources of long-term, fixed rate capital available to CDFIs. When lenders can match long-term assets and long-term liabilities, they significantly reduce interest rate risk.

¹² <https://www.cdfifund.gov/sites/cdfi/files/documents/cdfi-certification-application-for-comment-may-2020.pdf>



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Unlike other CDFI Fund programs, the BGP is not a grant program, but is instead a federal credit program that functions at no cost to taxpayers. The bonds are debt instruments that must be repaid. Under the BGP, an organization applies to Treasury to be certified as a Qualified Issuer (QI) of CDFI bonds and once approved, a QI has the authority to issue 30-year bonds that are fully guaranteed by the Treasury Department. A QI uses the proceeds from the bond to make Bond Loans to one or more eligible CDFIs to finance or refinance a qualified community development activity.

The Treasury Department has approved five organizations as Qualified Issuers, including CRF, Opportunity Finance Network (OFN), Bank of America (BofA), Wisconsin Housing and Economic Development Authority (WHEDA) and Stonehenge Community Development, LLC (Stonehenge). Three QIs (CRF, OFN and BofA) have issued all the CDFI Bonds to date. Between 2013 and 2020, a total of 14 CDFI Bonds were issued which resulted in \$1.7 billion in financing available to 26 eligible CDFIs. (See Appendix for Chart on CDFI Bond Guarantee Issuance from 2013 – 2020) This \$1.7 billion in BGP financed loans has leveraged more than \$16 billion in additional investment to support community development projects and businesses in low-income communities.

One novel example of how the BGP has supported critical financing gaps in low-income and communities of color is the SUN (Stabilizing Urban Neighborhoods) Fund – an innovative foreclosure relief initiative launched in late 2009 by Aura Mortgage Advisors - a CDFI and an affiliate of Blue Hub Capital, a CDFI headquartered in Boston. SUN was designed to address the eviction crisis during the Great Recession. A licensed residential mortgage lender, Aura is using 100% of the Bond Loan Fund Proceeds to provide residential owner-occupied home mortgages to residents of low-income areas in states around the country as well as to expand its existing lending in low-income areas in Massachusetts.

Strengthening the Bond Guarantee Program

Despite the unique benefits of the BGP, the program has not realized its full potential. Only 26 CDFIs have participated in the bond program and as a QI, CRF works with many CDFIs, particularly smaller organizations, that are not able to access this valuable source of long-term, fixed-rate financing. This raises the question of why and what might be done to increase utilization of this program?

Based on our experience as a Qualified Issuer, we recommend the following changes to the BGP:

- 1) Reduce the minimum bond issuance from \$100 million to \$25 million
- 2) Increase program efficiency and consistency by granting the BGP permanent authority
- 3) Provide a small credit subsidy to ease collateral and credit requirements of this program
- 4) Consider making the bonds issued under the BGP a public capital markets product.



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Minimum Threshold for CDFI Bond Issues

Under current law (12 USC 4713 a(e)) a CDFI Bond Issue must have a minimum aggregate principal of \$100 million before Treasury can guarantee a CDFI bond to a Qualified Issuer. A Bond Issue can include multiple CDFI Bonds (a series) as long as the aggregate demand supports a \$100 million bond. If a QI is working to issue a CDFI Bond for several CDFIs and one of them decides not to proceed before closing, leaving the QI short of the required \$100 million threshold, then all the CDFIs involved are at risk of losing access to Bond financing. Unless the QI can secure another qualified CDFI to join the series and bring the aggregate bond issue back to \$100 million or the QI can find another QI willing to include additional CDFIs in their Issue, the remaining CDFIs will have to regroup and try again in a future round. This scenario has played out on multiple occasions since the program was launched and several CDFIs have been unable to pursue CDFI Bond Loans because the \$100 million threshold could not be met.

The \$100 million minimum makes it difficult for small and medium sized CDFIs to participate in the BGP as they are generally seeking smaller bond loans, in the \$10 million to \$25 million range. Based on data from the CDFI Fund on 35 CDFI Bond Loans, there appears to be a demand for loans under \$50 million. **Sixty-five percent of the loans are for \$50 million or less, 44% of the loans are \$25 million or less, and 24% of the loans to date are for \$15 million or less.**¹³

Prohibiting the issuing of a CDFI Bond unless there is at least \$100 million in demand has created a bottleneck and limited the flow of BGP financing to CDFIs in need of long-term, fixed-rate capital at a time when this source of financing could help pandemic impacted communities to recover and rebuild.

Recommendations

1) Reduce the minimum Bond Issue from \$100 to \$25 million.

This simple statutory change will immediately increase the efficiency of the BGP by allowing CRF and other QIs to issue 'right sized' Bond Loans to a broader segment of the CDFI industry. This change will make BGP financing more accessible to smaller CDFIs, rural CDFIs, Native CDFIs and other CDFIs seeking long-term, fixed rate financing for underserved areas across the country.

2) Permanent Authorization of the Bond Guarantee Program

The BGP was originally authorized in the Small Business Jobs Act of 2010 (P.L. 111-240) with an authorization sunset on September 30, 2014. Since then, authority for the BGP has been extended annually via the Financial Services and General Government (FSGG) Appropriations bill providing program authority for another year and granting Treasury the authority to guarantee additional CDFI Bonds.

¹³ Analysis by CRF using Bond Guarantee Data from the CDFI Fund.



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A permanent authorization of the BGP would provide stability and predictability to the BGP while vastly improving the efficiency for QIs, CDFIs, as well as the CDFI Fund staff administering this program. The BGP is a sound, well managed program and to date there have been no delinquencies or defaults on any payment under this program.

3) Provide Credit Subsidy to Ease Collateral & Credit Requirements

Sound collateral and credit requirements are essential to the BGP as this program is guaranteed by the U.S. government. We recognize the enormous task of structuring a program that balances the benefits of a federal guarantee with the appropriate credit and underwriting standards. Based on our experience of issuing \$940 million in bonds on behalf of eight CDFIs in seven funding rounds since 2014, CRF has seen firsthand the challenges some CDFIs (particularly smaller organizations) face when trying to meet the collateral and credit standards of this program. Therefore, I urge the members of this Subcommittee to explore the option of providing a small credit subsidy for the BGP to enable the Fund staff to underwrite guarantee applications based on the underlying financial strength of individual CDFIs using commercially reasonable standards that are deemed safe and sound. The purpose of the BGP is to provide guarantees on bonds where proceeds are used for eligible community or economic development purposes while at the same time, not incurring any losses. These objectives mandate stringent underwriting criteria and significant collateral requirements that smaller CDFIs are unable to meet. A small credit subsidy could allow for more flexible standards that enable CDFIs with smaller balance sheets to access the long-term, fixed rate financing offered by this program.

Recommendation

The Subcommittee and the CDFI Fund should explore the possibility of providing a small credit subsidy to create additional flexibility in the collateral, credit, and underwriting requirements of the BGP. This could be accomplished through a combination of statutory and regulatory changes as well as administrative guidance included the Notice of Guarantee Authority (NOGA) issued for each round of the program.

4) Make BGP a Public Capital Markets Product

On a separate but related note, I encourage the Subcommittee to explore how the BGP could evolve to become an investment product available to investors in the public capital markets. This program was initially envisioned for private sector investors that would allow CDFIs to access capital at scale. The legislation included a prohibition on bonds issued under this program from being considered for Community Reinvestment Act (CRA) credit.¹⁴ This prohibition clearly signals Congress' intent to allow the bonds issued under the BGP to be sold to private investors. However, it was subsequently determined that the Federal Financing Bank was required to be the sole investor in

¹⁴ INVESTMENT IN GUARANTEED BONDS INELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.— Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901). Small Business Jobs Act of 2010 – Public Law 111-240, Sept. 27, 2010; Part III – Other Matters § 1134. Guarantees for bonds and notes issued for community or economic development purposes.



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these bonds. CDFIs have gained visibility and need to expand their sources of long-term capital. Additional hearings on this topic would be a welcome opportunity to explore a path to scale the capacity and financing activities of CDFIs.

Other CDFI Fund Programs

CRF participates in a number of CDFI Fund programs, and therefore I would like to add the following additional recommendations for Subcommittee members to consider:

- 1) **Provide \$1 billion in annual appropriations for CDFI Fund programs and administrative costs.** If there is anything the coronavirus crisis has demonstrated, it is that CDFIs are essential organizations in underserved communities. This agency and its programs must have the resources commensurate with the responsibilities and the tasks with which they have been charged. I join my fellow witnesses in calling for a top line appropriation of \$1 billion for the CDFI Fund for FY 2022.
- 2) **Make the New Markets Tax Credit (NMTC) Program permanent.** While this Subcommittee does not have jurisdiction over the NMTC, the CDFI Fund plays an important administrative role in this unique tax credit program that attracts private sector investment to underserved communities. Since the inception of the NMTC Program in 2000, the CDFI Fund has completed 17 allocation rounds and has made 1,354 awards totaling \$66 billion in tax allocation authority. According to the New Markets Tax Credit Coalition, these allocations "... have delivered nearly \$110 billion total project financing to over 7,000 projects" through 2020.¹⁵

Conclusion

I appreciate having the opportunity to reflect on the transformative and collaborative work that the CDFI Fund has supported and the impactful work that CRF and our CDFI colleagues have been able to do over the last 30 years.

I would like to remind the members of the Subcommittee that CDFIs, like the tiny private boats that rescued stranded British soldiers from the beaches at Dunkirk in 1940, demonstrated their ability to deliver PPP loans to people and places our most sophisticated financial institutions were unable to reach during one of the worst economic crises our country has ever faced.

As our nation contends with the twin challenges of the pandemic and unprecedented racial and economic inequities, modernizing the CDFI certification rules and the Bond Guarantee Program will advance the work of CDFIs and allow them to bring new resources to support underserved communities and their residents. The pandemic response has created new excitement about the potential of the CDFI industry and placed new demands on the CDFI Fund and its programs to utilize its market-based strategies to address chronic economic challenges in disadvantaged areas of the country by leveraging private investment. CRF will continue to advocate for the resources necessary to support this critical Agency, its programs, and its staff.

¹⁵ <https://nmtccoalition.org/fact-sheet/>



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I urge the members of this subcommittee to consider our recommendations to modernize the CDFI certification rules to ensure this framework continues to advance the goals and mission of the Fund. I also *strongly encourage* members to support Chair Smith and Ranking Member Rounds' proposed BGP legislation introduced today that would reduce the minimum bond issuance from \$100 to \$25 million and grant permanent authority to this program. This legislation addresses significant barriers for smaller CDFIs to access this program and bring long-term resources to underserved communities. I remain hopeful that bonds issued under this program can evolve into a public capital markets product.



APPENDIX

I. Bond Guarantee Information

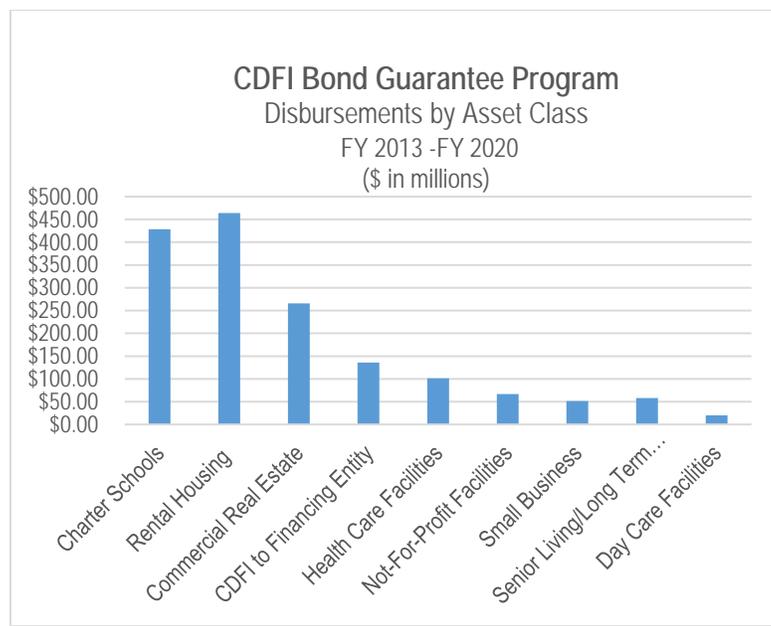
CDFI Bond Guarantee Issuance – 2013 – 2021

Fiscal Year	Qualified Issuer	CDFI Bond Issue (\$ in millions)	Eligible CDFI and Bond Loan Amount (\$ in millions)
2013	CRF	\$125	Community Development Trust - \$125
2013	BoA	\$100	LISC - \$50 Enterprise - \$50
2013	OFN	\$100	Clearinghouse CDFI - \$100
2014	CRF	\$200	Capital Impact Partners - \$55 IFF - \$25 Low Income Investment Fund - \$65 The Reinvestment Fund RF - \$55
2015	CRF	\$100	Raza - \$100
2015	OFN	\$100	Clearinghouse - \$100
2015	OFN	\$127	Bridgeway Capital - \$15 Chicago Community Loan Fund - \$28 Citizens Potawatomi Community Dev. Corp. - \$16 Community Loan Fund of NJ - \$28 Community Ventures Corp - \$15 Federation of Appalachian Housing Enterprises \$15 Kentucky Highlands Development Corp - \$10
2016	CRF	\$165	Capital Impact Partners - \$40 Low Income Investment Fund - \$50 The Reinvestment Fund - \$75
2016	BoA	\$100	Self Help - \$100
2017	CRF	\$100	Aura Mortgage Advisors - \$100

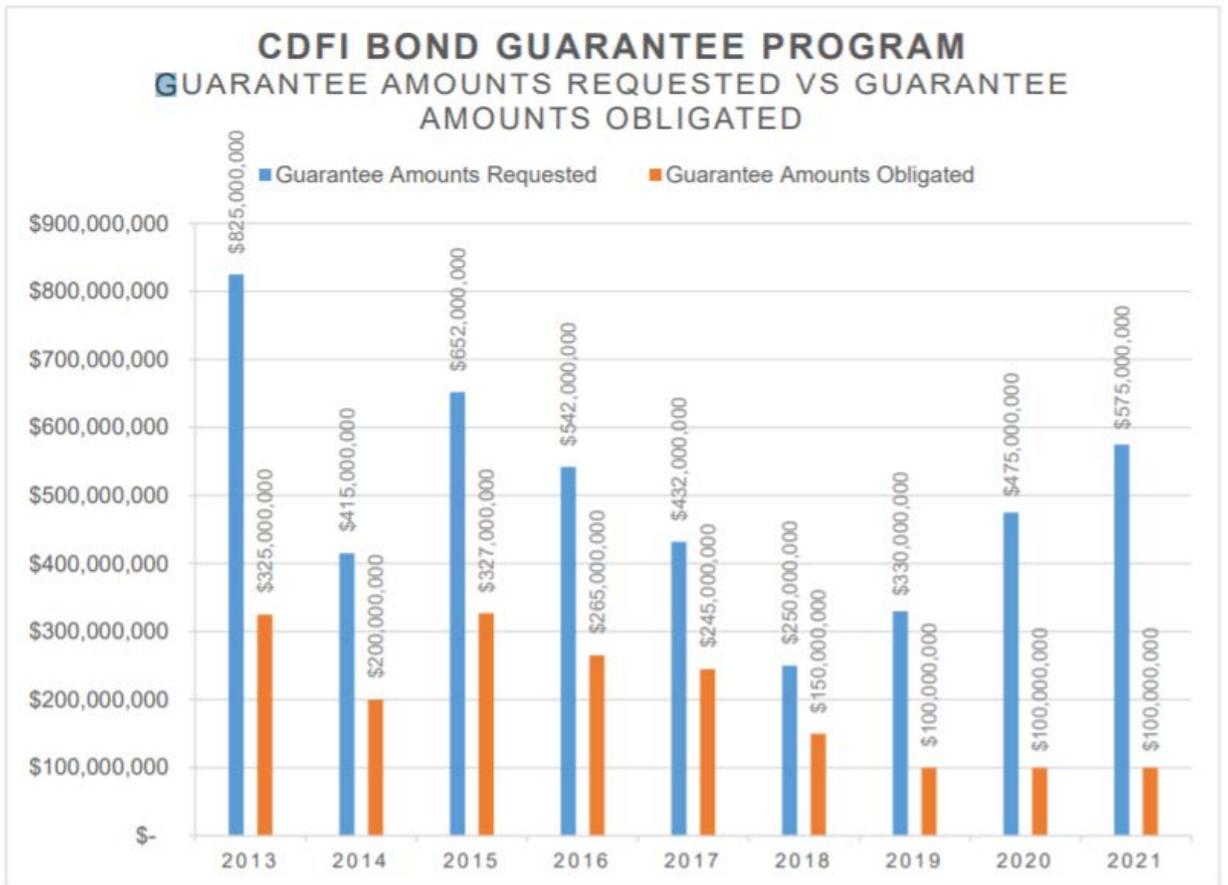


Fiscal Year	Qualified Issuer	CDFI Bond Issue (\$ in millions)	Eligible CDFI and Bond Loan Amount (\$ in millions)
2017	OFN	\$145	Impact Seven - \$10 Building Hope - \$25 Coastal Enterprises Inc - \$20 Community First Fund - \$10 Florida Community Loan Fund - \$30 Greater MN Housing Fund - \$10 Homewise Inc - \$15 Housing Trust Fund Silicon Valley - \$25
2018	CRF	\$150	Clearinghouse CDFI - \$150
2019	OFN	\$100	Community Loan Fund of NJ - \$25 Federation of Appalachian Housing Enterprises - \$20 Greater MN Housing Fund - \$55
2020	CRF	\$100	Clearinghouse -\$100
2021	BofA	\$100	Self Help

Source: CRF BGP Background and Impact Overview – June 2021 prepared by The Feighan Team



Source: CRF BGP Background and Impact Overview – June 2021 prepared by The Feighan Team



Source: Office of the Inspector General, Department of the Treasury, Audit of the Community Development Financial Institutions Fund's Financial Statements for Fiscal Years 2021 and 2020, December 15, 2021.



CDFI Bond Guarantee Program
Disbursements by Asset Class as of September 30, 2021

Asset Class	Since Inception Disbursements (\$millions)	Proposed Disbursements (\$millions)	Geography (Based on YTD Disbursements)
Charter Schools	\$364.9	\$438.4	AZ, CA, CO, CT, DC, FL, GA, HI, IL, MD, MI, MN, NJ, NM, NY, OH, PA
Rental Housing	\$369.3	\$473.9	AL, AZ, CA, DC, FL, GA, IL, KY, LA, MA, MD, MO, MN, NC, NJ, NM, NV, NY, OH, OR, PA, TN, TX, WI, WV, UT
Commercial Real Estate	\$263.7	\$285.7	AZ, CA, IL, LA, MA, MI, NJ, NC, NV, NY, OK, OR, PA
CDFI to Financing Entity	\$115.2	\$136.7	KY, MA, NJ, NM
Health Care Facilities	\$74.2	\$111.3	CA, DC, IL, KY, NC, NY, WI
Not-for-Profit Organizations	\$65.2	\$86.6	AZ, CA, FL, MA, MI, NM, NJ, NV, NY, PA, TN
Senior Living and Long-Term Care	\$20.3	\$68.0	CA
Small Business	\$51.2	\$61.2	AZ, CA, KY, NJ, FL, PA, CO, MA, NV
Day Care Centers	\$13.0	\$30.0	KY, NM, NY
Totals	\$1,337.0	\$1,692.0	

Source: Office of the Inspector General, Department of the Treasury, Audit of the Community Development Financial Institutions Fund's Financial Statements for Fiscal Years 2021 and 2020, December 15, 2021.



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II. CRF Certification Comment Letters

- a. CRF's Comment Letter on the CDFI Fund's Annual Certification and Data Collection Report Form, September 8, 2014
- b. CRF's Comment Letter on the interim rule implementing the Community Development Financial Institutions Program (CDFI Program), October 26, 2015
- c. CRF's Comment Letter on the Notice and Request for Information regarding the current policies and procedures to certify an organization as a Community Development Financial Institution (CDFI), March 10, 2017
- d. CRF's Comment Letter on Comments on Notice and Request for Public Comment on proposed CDFI Certification Requirements and Documents, November 4, 2020



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Capital for Communities –
Opportunities for People®

September 8, 2014

Brette Fishman
Management Analyst
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20020

Dear Ms. Fishman:

On behalf of Community Reinvestment Fund, USA, (CRF), we appreciate this opportunity to provide comments and share our views on the Community Development Financial Institutions Fund's (CDFI Fund) proposed Annual Certification and Data Collection Report Form. Our comments are in response to the CDFI Fund's request for public comment on the proposed form published in the Federal Register on July 9, 2014.

BACKGROUND

CRF is a national, non-profit CDFI, and the nation's leader in channeling resources from the capital markets to support community development financing activities. Our mission is to improve the lives of disadvantaged people and strengthen distressed communities through innovative finance. Since 1988, CRF and its affiliates have been engaged in promoting long-term sustainable economic growth in low-income communities and on behalf of low-income people. We have delivered more than \$1.5 billion in capital to small businesses, community facilities and affordable housing projects located in more than 800 communities across the country. In partnership with 200 local lending partners, we have funded 2,438 loans in 46 states and the District of Columbia. Working collaboratively with these local lending partners, CRF has directly assisted more than 612,000 people, including financing 19,000 housing units, 3,700 childcare slots, 9,850 slots at educational facilities, financing over 1,491 small businesses, creating or retaining 71,000 jobs and funding community facilities that serve over 502,000 people.

CRF was founded on a vision of improving the lives of people living and working in economically distressed communities by providing access, in partnership with local community development organizations, to public and private sector resources throughout the country. The hallmark of CRF is our ability to adapt financing tools to connect underserved communities to new sources of capital. We were the first nonprofit financial intermediary to issue securities collateralized by community economic development assets. Since 1989, CRF has issued 19 series of Notes totaling \$284.7 million backed by community development loans. Three of our debt offerings totaling \$176 million have been rated and all of which included a senior tranche rated "AAA" by Standard & Poor's. Similarly, we have issued three multifamily affordable housing securities, including one Standard & Poor's rated issue totaling \$84.9 million, backed by 45 multifamily affordable housing loans.

As a major participant in the New Market Tax Credit (NMTC) Program, we created a tax credit product to support operating businesses with long-term, flexible financing at below-market interest rates. Since 2000, CRF and its affiliate, National New Markets Tax Credit Fund, Inc., (NNMTCF) have become one of the largest NMTC Allocatees in the country, receiving tax credit allocations in 7 of the 10 funding rounds totaling \$749.5 million and investing \$52.5 million on behalf of other Allocatees, providing 387 NMTC loans to date.

With the contraction in bank lending to small businesses resulting from the Great Recession, CRF sought to address the tremendous need among underserved borrowers and firms located in distressed communities to access appropriate credit products. We obtained one of 14 national non-depository SBA 7(a) licenses to offer this government guaranteed loan



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product to borrowers unable to access conventional credit, typically small businesses located in low-income areas as well as those owned by women, minorities and/or veterans.

Most recently, in 2013 CRF was selected as one of the first Qualified Issuers (QI) in the inaugural round of the CDFI Bond Guarantee Program. We closed our first Bond Issue in early August of this year. Our long and successful track record of developing and implementing credit programs to finance small businesses, affordable housing, community facilities and other community development projects in economically challenged areas makes us uniquely suited to this transformative new program offering long-term, fixed rate funding for Community Development Financial Institutions (CDFIs).

CDFI CERTIFICATION

The issue of CDFI Certification is critically important to the well-being and success of the CDFI industry. CRF has a strong interest in how the Fund's proposed Annual Certification and Data Collection Report Form will affect individual organizations as well as the industry overall. Perhaps the CDFI industry's greatest strength is its flexibility to deliver credit and capital to a wide range of borrowers across a variety of different geographies while fulfilling the Fund's mission as embodied in its Certification requirements. With increased recognition and value placed on the CDFI 'brand', it is even more important to ensure CDFI Certification is based on a sound and effective set of criteria that allows the industry to remain competitive and vibrant.

GENERAL CERTIFICATION COMMENTS

Before offering specific comments on the proposed Annual Certification and Data Collection Report Form (Form), we would like to address the broader issue of CDFI Certification. Although we appreciate the need to establish an efficient mechanism for recertifying existing CDFIs, there are broader questions related to the current certification criteria (both regulatory and agency guidance) as well as the process for certifying applicant organizations. The Fund solicited comments on the authorizing statute (The Riegle Community Development and Regulatory Improvement Act of 1994) in 2010, however, to our knowledge, there has not been a thorough review and assessment of the both the process and the criteria used to certify CDFIs. Moreover, there has only been one systematic recertification effort conducted by the Fund in 2013. Given the dramatic changes in the financial markets and technological developments over the past decade, a rigorous review of the Fund's certification policies and procedures would seem to be in order. Instituting a new recertification process is the *best* time to re-examine certification regulations and Agency guidance to make sure the current framework is both *relevant and meaningful* to the environment in which CDFIs operate. With this in mind, we wish to discuss key challenges presented by the current certification framework and how such challenges could be addressed before turning to specific comments on the proposed Annual Certification Report Form.

I. Certify CDFIs to serve a National Target Market of Investment Areas

As a national, non-profit financial institution and certified CDFI, we have a unique perspective on this issue. In 2012, when we began offering our national SBA 7(a) loan product (one of two CDFIs approved to offer this product nationally) we became acutely aware of the investment in staff, training and technology needed to offer this product successfully in a highly competitive market. To cover costs and make this product financially sustainable, CDFIs must be able to scale their lending activities to support a 7(a) platform. In addition, the very nature of small business lending makes it a more episodic form of financing. Generally speaking, small business borrowers request a single loan of a relatively small amount with limited likelihood of repeat lending opportunities. With the onset of the Great Recession and the dramatic contraction of bank lending to small business, CDFIs stepped up to fill this credit gap. As a CDFI with a national profile, we regularly receive loan requests from all over the county. It is difficult to turn these worthy borrowers in CDFI eligible census tracts away when we know our loan could create economic opportunity in low-income communities.



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Under the current certification framework, the Fund has not certified *any* CDFI for a national Target Market composed of eligible Investment Areas because there is no established mechanism for a CDFI to demonstrate accountability to such a Target Market. The inability to define an acceptable accountability mechanism for a national Target Market composed of all CDFI Investment Areas prevents the Fund from approving such a Target Market. This raises two serious questions. First, "How can the Fund ask CDFIs offering national loan products, such as the SBA 7(a), to limit their ability to deliver such products in what is clearly a national marketplace driven by dramatic changes in information technology?" Second, "Doesn't the lack of policy guidance tie the hands of successful CDFIs seeking to scale their lending operations to meet credit demand from low-income areas?" If so, the inability to certify CDFIs for a national market perpetuates the very situation – lack of access to appropriate credit sources – the Fund was established to address. This situation is especially challenging given there are many CDFIs the Fund has certified to serve national Target Markets composed of Low-income Targeted Populations (LITP) and which maintain accountability to such Target Markets through Governing and/or Advisory Boards.

We respectfully urge the Fund to develop regulations and/or guidance to allow CDFIs to be certified for a *National Investment Area Target Market* by establishing a meaningful way for applicants to demonstrate accountability to such Markets through new or existing mechanisms. Specifically, we ask the Fund to consider the following approaches:

- *Accept the SBA 7(a) "credit elsewhere" test as evidence of accountability for the purposes of serving a National IA Target Market.* The federal SBA 7(a) program was established to serve borrowers that Congress determined lack access to affordable credit and capital on reasonable terms, and, in particular minorities, women and veterans. It is a nationwide program. By its very existence, the SBA 7(a) program is a *federal policy conclusion* that small businesses meeting its eligibility requirements seeking loans of \$5 million or less lack access to credit and capital nationwide. In fact, the 7(a) loan application requires SBA lenders to document the borrower's inability to obtain credit elsewhere. This application requirement ensures that lenders remain accountable to the borrowers they serve by providing credit to small businesses unable to access loans from conventional financial institutions. An Urban Institute report published in 2008 has confirmed that this provision is adhered to by lenders.¹
- *Develop new accountability mechanisms using innovations in data and data gathering techniques.* Dynamic changes in technology have rendered many of the current accountability mechanisms less effective when compared to information about local credit conditions provided by new data sets available through online platforms. For example, using new data tools, such as google maps, it is possible to find an address, view a photo of a building thousands of miles away from a personal computer. Much more granular data is also available with the advent of big data. Policy Map recently began including a state level data set called *Longitudinal Employer Household Data* that allows users to profile small businesses by geography, by the percentage of low-income workers they employ, and by whether or not have they have received small business loans. This data tool could help a CDFI determine if small firms located in eligible census tracts and employing low-income workers are having difficulty accessing credit. Armed with this knowledge, CDFIs could work directly with small businesses across the country to address their credit needs with appropriate loan products.

CDFIs are experts at accessing government programs to serve distressed markets and borrowers unable to tap traditional sources of credit. With the onset of the financial crisis, CDFIs watched small business credit dry up in their

¹ http://www.urban.org/UploadedPDF/411602_executive_summary.pdf



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communities and across the country. They responded, at the urging of the CDFI Fund², by joining the ranks of SBA Community Advantage Lenders as well as offering their own small business credit products. CRF sought and obtained a national license to provide the full SBA 7(a) product. As noted above, to use these new product capabilities in a financially sustainable fashion, CDFIs need to expand their Target Markets to meet demand from credit-starved small businesses. This demand ebbs and flows over time and across broad geographic areas. Changes in the marketplace offer new ways for CDFIs to establish and maintain accountability to larger Investment Areas that may ultimately prove even more informative than current accountability mechanisms. But the inability to develop and test new accountability mechanisms threatens to harm the very industry the Fund was created to support. Without a *National Target Market designation comprising eligible Investment Areas*, CDFIs will be constrained to geographic areas that make it uneconomic to offer certain products, thus limiting their capacity to offer the resources small businesses in underserved areas so desperately need. Without safe credit options, small businesses may fall prey to an even greater threat to their wellbeing - the growing numbers of online companies offering loans on terms many consider to be predatory. While not all of these online providers offer dangerous products to underserved small businesses, it is vitally important to preserve the ability of CDFIs to offer appropriate credit products to businesses in low-income communities. ***We strongly urge the Fund to work with the industry to develop new accountability mechanisms to enable CDFIs to remain competitive and capable of serving the markets to which they are committed.***

II. Issue guidance on small business loans serving Low-income Targeted Population Target Markets

CDFI small business lenders are also challenged by the lack of clear guidance about how to qualify loans serving a LITP Target Market at the local, regional or national level. Generally speaking, these CDFIs qualify loans serving this Target Market by “looking through” the project to the “end beneficiaries” of their financing activities. For example, a loan to develop a multifamily affordable housing project using a government program, like the Low-Income Housing Tax Credit (LIHTC), qualifies as serving a Low-income Targeted Population based on program requirements mandating that a certain percentage of the housing units be rented to low-income families. Similarly, a CDFI making a loan to a charter school or a community health center “looks through” the project to the “end beneficiaries” using proxies, such as the number of students receiving free or reduced lunches or the number of Medicaid patients, to verify the financing is serving low-income people.

Just as CDFIs can rely on the federal LIHTC as a methodology for determining low-income people are the “end beneficiaries” of loans to tax credit projects, so too, should they be able to rely on other federally-accepted methodologies for determining low-income people are the “end beneficiaries” of certain small business loans. Often the small business financing provided by CDFIs create and retain jobs for low-income people regardless of where the borrower is located. The CDFI Fund’s authorizing legislation clearly supports this approach to qualifying small business loans as it explicitly states *CDFI Fund Financial Assistance may be used to serve Targeted Populations by making loans to businesses that provide jobs for low-income people.*³

Unfortunately, no similar methodology exists under current guidance for qualifying CDFI small business loans as serving LITP Target Markets. We understand the Fund is open to examining and potentially adopting approaches used by other federal programs, like HUD’s Community Development Block Grant (CDBG) Program, for verifying jobs

² Letter from Donna J. Gambrell, Director of the CDFI Fund, to CDFI Partners regarding participation in the SBA Community Advantage Program, March 25, 2011.

³ Public Law 103-325, Riegle Community Development and Regulatory Improvement Act of 1994, Section 108(b)(1)(B).



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created or retained through these loans are benefitting low-income people. Guidance on this issue would give CDFIs flexibility to assist small businesses that are *not* located in an eligible census tract (IA) but which are creating and retaining employment opportunities for low-income people. The Fund's authorizing legislation was drafted with the intent to empower CDFIs to use Financial Assistance Awards to address the credit and capital needs of underserved places and *populations* through small business lending. The statute is very clear on this point and the absence of regulatory or agency guidance should be addressed so as to align the law and respective regulations. ***We strongly recommend the Fund develop and implement a protocol for CDFIs to qualify their small business loans as serving LITP Target Markets*** to recognize the benefits provided to low-income people through these loans. We stand ready to assist you in this effort.

III. Expand the definition of Other Targeted Populations for CDFIs using SBA programs

The last issue we wish to highlight is the changing demographics of small business owners in this country, especially in low-income communities and among underserved borrowers. We urge the CDFI Fund to expand its definition of Other Targeted Populations to include a broader range of borrowers using the SBA 7(a) and related programs. The 7(a) loan program is, by definition, a federal policy conclusion that small businesses meeting its eligibility requirements seeking loans of \$5 million or less lack access to credit and capital nationwide. As noted above, the 7(a) application requires SBA lenders to document the borrower's inability to obtain "credit elsewhere". Minority-, women- and veteran-owned firms face additional obstacles to obtaining credit and therefore SBA places a priority on serving these borrowers with the 7(a) product. Research, such as a 2008 Urban Institute analysis⁴, has demonstrated that these particularly underserved borrowers are more likely to obtain a loan through the 7(a) program than in the conventional market. Moreover, a 2013 Congressional Research Service analysis concludes that the program meets its goals.⁵

The SBA has defined a "minority-owned" or "socially disadvantaged" firm more broadly than the CDFI Fund. Under the Minority Small Business and Capital Ownership Development program - also known as the 8(a) Business Development (BD) program, individuals who are members of the following groups are deemed to be "socially disadvantaged" based on the fact they have been subject to "racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities": Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians); Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal) (13CFR 124 §124.103).

Given the SBA has determined individuals in these racial, cultural, and ethnic groups face discrimination affecting their ability to access credit, we request that CDFIs using the SBA 7(a) program be permitted to use the SBA definition of

⁴ http://www.urban.org/UploadedPDF/411596_504_gap_analysis.pdf

⁵ <http://fas.org/sgp/crs/misc/R41146.pdf>



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"socially disadvantaged" borrowers to qualify a small business loan as serving an OTP Target Market without undertaking additional research or producing further studies documenting the fact that these individuals lack access to affordable credit. In other words, expand the CDFI Fund's definition of Other Targeted Populations to include those borrowers the SBA has deemed to be "socially disadvantaged" for the purposes of SBA 7(a) small business loans. Not only is this approach in keeping with the regulations of the 7(a) program under which CDFIs are operating, but it best reflects the types of small business borrowers who are starting and operating small businesses in this country. A 2010 study by the SBA revealed, "Immigrants are found to have higher business ownership and formation rates than non-immigrants. Roughly one out of ten immigrant workers owns a business and 620 of 100,000 immigrants (0.62 percent) start a business each month."⁶ Adopting this expanded definition of Other Targeted Populations would better align CDFI and SBA program objectives while remaining true to the Fund's mission of fostering economic opportunity and promoting community development investments that benefit underserved populations and distressed communities across the country. These borrowers have proved beyond the shadow of a doubt they are unable to access conventional credit and they have signed a federal application attesting to this fact. What additional proof do we need to determine that these are the *very* borrowers the Fund was established to support?

COMMENTS ON ANNUAL CERTIFICATION AND DATA COLLECTION REPORT FORM

We wish to offer the following comments on specific Certification Data requested in the CDFI Fund's proposed Form and as defined in the accompanying Glossary.

I. Part I. Certification Data

- a. **Target Market Test - #19.** The Respondent attests that the Target Market(s) for which it is approved to serve have not changed since their CDFI Certification was last affirmed by the CDFI Fund. (Yes/No)

- b. **Target Market Test - #20.** If the Respondent indicates that the Target Market(s) has changed, please describe changes.

In our view, these questions raise a host of important but unaddressed issues for CDFIs. For example, "What constitutes a change to a CDFI's Target Market?" Or "How can CDFIs modify their Target Market(s) in a timely fashion in response to changes in their marketplace?" Given that this Form will be filed annually by CDFIs, how quickly will the Fund staff respond to CDFI requests to amend their Target Market(s)? If a CDFI has a modification request pending at the CDFI Fund, how should the organization respond to either or both of these questions? What are the implications of responding in the affirmative to Question # 19 for the certification status of the organization as well as for other awards, allocations and/or certifications (as a CDE) it may have received from the Fund? We would strongly urge the Fund to provide detailed guidance on the questions we have raised to ensure proper and effective procedures are in place to enable CDFIs to modify their Target Market(s) in light of the increasingly competitive environment in which they operate.

- c. **Target Market Test - #21.** List the Target Market(s) that are the basis for current certification.

This request would seem to be duplicative assuming the Fund already has this information in its

⁶ *Immigrant Entrepreneurs and Small Business Owners and their Access to Financial Capital* by Robert W. Fairlie, Ph.D. Economic Consulting, Santa Cruz, CA, under contract no. SBAHQ-10-R-0009, May 2012.



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Certification Database.

II. Part II. Financial and Operational Data

a. Loans/Investments Originated - #21. Purpose

The financial products listed in this section of the Form are all assumed to be *originated* by a CDFI. Often, CDFI purchase loans that have been originated by another organization seeking to generate balance sheet liquidity. The Fund should consider amending the title of this section to ***Loans/Investments Originated or Purchased*** to fully capture the financing activities of CDFIs.

In addition, we suggest the Fund include another category of Real Estate Loans entitled **“Real Estate – Acquisition and/or Permanent Financing”** to reflect how multifamily affordable housing projects are financed by CDFI. This option captures the common practice whereby one CDFI provides early stage financing for an affordable housing project, including site acquisition, pre-development, construction and/or bridge financing while longer term or permanent take-out financing may come from another source, such as another CDFI. This approach reflects the fact that many CDFI rely on short term funding sources and are not able to offer longer term (25+ year) financing that matches the term of the asset. As a CDFI with extensive capital markets experience, CRF is able to offer long term permanent financing to both new and existing multifamily affordable housing projects. We believe this capability is important to our CDFI partners and request that the Fund add this loan category to its proposed list.

b. Staff and Consultants - #28 Total number of Full Time Equivalent (FTEs) – Staff Only

i. FTEs devoted to Development Services

It would be helpful to have guidance to assist CDFIs in estimating information such as the number of FTEs devoted to Development Services. Many CDFIs do not have staff *exclusively* dedicated to providing Development Services but rather some portion of their staff's time is spent providing these services. A methodology to help CDFIs calculate this data point would ensure greater consistency in reporting this information across the industry.

III. Part III. Target Market Data

a. Loan and Investment Information - #s 1 & 2 and Loan Information - #s 7 & 8

These two data sets appear to be asking for the same information, e.g. the total number of loans and investments in the Target Market(s) versus the total number of loans and investments originated in Target Market(s). Are #s 1 & 2 looking for all loans and investments in the Target Market(s) while #s 7 & 8 are asking about loans and investments originated in Target Market(s) during a the reporting period (or the most recent fiscal year)? If so, this should be clarified by adding *“during the most recent Fiscal Year”* to #s 7 & 8.

b. Development Services

i. Total # of Development Services provided in the Target Market(s) - # 11

ii. Total \$ of Development Services provided in the Target Market(s) - # 12



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- iii. **Total # of Development Service clients in the Target Market(s) - # 13**
- iv. **Total # of clients in the Target Market(s) - # 14**

As noted above in Part II. Financial and Operational Data, under Staff and Consultants, many CDFIs deliver their Development Services in the context of the financial product or services they are providing. In reviewing the data requested on Development Services in #s 11 – 14, it might be useful to explore alternative ways for CDFIs that do not offer Development Services as a separate activity to report on these Services rather than using estimates of the number of clients served to calculate the # and \$ amount of Services provided. We question the usefulness and the accuracy of such data and therefore the value of requesting it from CDFIs whose model does not include a differentiated set of Development Services. Perhaps it would be more informative to ask those CDFIs that roll their Development Services into their Financial Products or Services to estimate what percentage of their financing clients receive Development Services. This information could be compared to the total number of loans, investments, or financial services delivered in a given period and the total dollar amount of those Financial Products or Services to arrive at a sense of the magnitude of Development Services being provided by a CDFI. We welcome a dialogue with our industry colleagues about more meaningful ways CDFIs without a distinct set of Development Service offerings might report on how they deliver this assistance to their clients.

IV. Part IV. Impact Data

There are a number of data items listed in this section of the Form that are not currently collected by CDFIs due to lack of an industry-accepted set of impact data points. It would be advisable to provide a transition period during the first reporting cycle to allow CDFIs to align their data collection activities with the new set of data points included in this Form.

- a. **Housing - #3 Number of Affordable Housing Units Created or Rehabilitated**

We assume this data point is defined by the Term *Number of Housing Units Created or Rehabilitated* included in the Glossary accompanying the proposed Form. If this assumption is correct, we would suggest modifying the name of this data point as well as the definition in the Glossary to read as follows: *Number of Affordable Housing Units Created, Rehabilitated, Financed or Acquired*. (Please note the definition in the Glossary neglected to include the word "*Affordable*" and which should be added as well.) Adding the phrase "*Financed, or Acquired*" recognizes two types of CDFI financing activities otherwise reflected in the proposed Form: (1) the provision of long-term permanent financing for multifamily affordable housing projects, generally funded in the stages, as described above in Part II. Financial and Operational Data (Loans/Investments Originated - # 21 Purpose); and (2) the purchase or acquisition of these loans from organizations seeking balance sheet liquidity.

- b. **Business Technical Assistance - # 28 \$ Dedicated to Business Technical Assistance**

As discussed in Part IV Development Services, many CDFIs do not break out the Development Services or the Business Technical Assistance they provide to their clients. Requesting a dollar value for this Business Technical Assistance may produce information of limited value for those organizations that integrate their assistance into their lending or investing process. Again, we urge



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the Fund to engage the industry in a dialogue about the kind of information related to Development Services and specifically, Business Technical Assistance that would be more informative and helpful to the Fund.

c. **Geographic Areas Served (Drop Down)**

If a CDFI collects data where its lending or investing activities are located but does not focus on specific geographic areas, how should it respond to this section of the Form? Is this an optional section to allow a CDFI to reflect particular geographic markets or areas it serves or is it intended to capture the types of geographic markets where its lending or investing occurred during the most recent fiscal year? Additional clarification as to how a CDFI should respond to this section would be helpful.

d. **Population Served**

We observed the absence of a separate category for "Hispanic/Latino" clients. This is especially puzzling because the Fund's Certification materials (Application and Guidance) specifically mention Hispanics with regard to Other Targeted Populations. Not including a separate category for "Hispanics/Latino" populations would seem to be inconsistent from a programmatic perspective. Could the Fund clarify whether this omission was an oversight, or if not, explain why this population was not included? We favor adding a box for "Hispanics/Latinos".

V. **Glossary**

a. **Business (Loans)**

The definition of Business Loans is far too narrow and does not accurately reflect the types of loans CDFIs are making. We are particularly concerned that the list of Business Loan examples only includes "microcredit, working capital, and lines of credit" but fails to mention two of the *most essential types of small business loans* - those used to acquire, expand or rehabilitate owner-occupied real estate and to purchase equipment. With a significant number of CDFIs engaged in small business lending (witness the growth of the Goldman Sachs 10,000 Small Businesses Initiative), we strongly encourage the Fund to expand the list of examples of small business loans to include "*term loans for acquiring or rehabilitating owner-occupied real estate or purchasing equipment.*" It is important to note, loans used to acquire or rehabilitate owner-occupied real estate are separate and distinct from real estate loans made to construct, expand or modify facilities to be leased by unaffiliated third-party businesses. In the latter case, the business developing the property will *not* occupy 51% or more of the space and is deemed to be engaged in real estate development. This type of loan would fall into the category of a **Real Estate – Rehabilitation – Commercial Loan**, another separately defined term included in the Glossary.

b. **Real Estate – Rehabilitation – Housing Development – Multi Family**

The definition provide for this type of loan refers a Financial Note used to rehabilitate or acquire multifamily housing. Again, we are concerned this definition is far too narrow and should be expanded



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to include the broad category of financing activities associated with affordable multifamily housing loans. To better reflect the breadth of activities included in this type of real estate lending, we recommend modifying the definition to read as follows: **“Financial Note is to rehabilitate, acquire or *finance* multifamily housing.”** To ensure consistency across the program, the same change should be included in the definition of **Real Estate – Rehabilitation – Housing Development – Single Family**. In a similar fashion, the definition of **Number of Housing Units Created or Rehabilitated** should be revised to read as follows: **“The Number of Housing Units constructed, rehabilitated, acquired, or *financed* through the housing development loans/investments originated *or purchased* during the reporting period.”** Note, we added the phrase **“*or purchased*”** as an acquisition generally takes place through a loan purchase.

Conclusion

We appreciate this opportunity to share our views and recommendations on the proposed Annual Certification and Data Collection Report Form as well as the broader issue of CDFI Certification. As the CDFI industry has gained increasing visibility and recognition, it is paramount that the certification framework remain both relevant and flexible. Certification is the “gateway” not only to the Fund and its resources, but to a broad community of stakeholders, investors, and supporters who share the CDFI industry’s mission and passion. We must preserve the imprimatur of this unique and successful model but not at the cost of rendering it uncompetitive or financially unviable. Certification must not be a static state but rather a dynamic tool and process that adapts as CDFIs respond to changes in their markets. We commend the CDFI Fund Staff for their efforts and stand ready to work with them to ensure certification is both effective and meaningful in the context of the environment in which CDFIs operate. Please do not hesitate to contact me with any questions regarding comments included in this letter.

Sincerely,

Frank Altman
President and CEO



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Capital for Communities –
Opportunities for People®

October 26, 2015

Amber Kuchar
CDFI Program Manager
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20020

Dear Ms. Kuchar:

On behalf of Community Reinvestment Fund, USA, (CRF), we appreciate this opportunity to comment on the interim rule implementing the Community Development Financial Institutions Program (CDFI Program) as requested by the Community Development Financial Institutions Fund (CDFI Fund) in the Federal Register on August 31, 2015.

BACKGROUND

CRF is a national, non-profit CDFI, and the nation's leader in channeling resources from the capital markets to support community development financing activities. Our mission is to improve the lives of disadvantaged people and strengthen distressed communities through innovative finance. Since 1988, CRF and its affiliates have been engaged in promoting long-term sustainable economic growth in low-income communities and on behalf of low-income people. We have delivered more than \$1.9 billion in capital, including through the issuance of CDFI guaranteed bonds, to small businesses, community facilities and affordable housing projects located in more than 800 communities across the country. In partnership with 200 local community partners, we have funded 2,438 loans in 48 states and the District of Columbia. Working collaboratively with these local lending partners, CRF has directly assisted more than 612,000 people, including financing 19,000 housing units, 3,700 childcare slots, 9,850 slots at educational facilities, financing over 1,491 small businesses, creating or retaining 71,000 jobs and funding community facilities that serve over 502,000 people.

The hallmark of CRF is our ability to adapt financing tools to connect underserved communities to new sources of capital. Whether it was pioneering the establishment of a secondary market for community development loans, issuing the first S&P-rated securities backed by these assets, becoming one of the largest NMTC Allocatees in the country, or being approved as the first Qualified Issuer under the CDFI Bond Guarantee program, we search for ways to scale new and existing credit programs or products to meet the credit needs of communities and borrowers left out of the economic mainstream. In 2011, prompted by the Great Recession and the significant contraction in bank lending to small businesses, CRF obtained one of 14 national non-depository SBA 7(a) Small Business Lending Company licenses. Our vision was to offer this government guaranteed loan product to borrowers unable to access conventional credit, typically small businesses located in low-income areas as well as those owned by women, minorities and/or veterans. Over the past three years, CRF not only launched its SBA 7(a) lending product, but now ranks among the 100 most active 7(a) lenders in the country. Our very success with this product is what prompts our comments below on the CDFI Fund's revised interim rule.

COMMENTS ON THE INTERIM RULE

The Fund is requesting comments on a number of changes to the CDFI Program interim rule. We have focused our comments on how CDFIs demonstrate accountability to their Target Market(s) and, in particular, how the Fund's change to Section 1805.201(b) (5) of the regulations significantly limits the types of permissible accountability methods that will be available to CDFIs. Under the current rule, CDFIs are allowed to use a variety of mechanisms to meet this certification requirement including: representation on a governing or advisory board; convening community meetings; conducting focus



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groups; and/or administering customer surveys. This approach has allowed CDFIs to select the most appropriate method for their Target Market(s) and to make use of more than one method if they have multiple Target Markets. Based on the Fund's revision to the interim rule, a CDFI will now be required to demonstrate accountability to residents of its Target Market in one of two ways - through representation on *either* its governing board or an advisory board. CDFIs will no longer be able to use surveys, focus groups or community meetings, as they have in the past. The Fund has not offered any explanation for this change, and the interim rule is silent on a number important questions. For example, will CDFIs currently using these alternative mechanisms be "grandfathered" for their existing Target Market(s) or will they be required to replace these mechanisms with appropriate governing or advisory board representation? If CDFIs using surveys, focus groups, or community meetings are required to move to one of the two permissible accountability mechanisms, will there be a transition period and process for CDFIs to implement these changes? The absence of any guidance as to how this change to the accountability criteria would be implemented raises concerns about the need for such a change as well as the possible implications for CDFIs.

CRF believes this change in accountability mechanisms is ill advised for several reasons.

I. Reduces the flexibility of CDFIs to utilize a variety of accountability options for different Target Markets

This revision to the accountability mechanisms is particularly problematic for small business lenders, like CRF, who, in the aftermath of the Great Recession, have tried to expand their Investment Area (IA) Target Market(s) in response to the unmet credit needs of small businesses in low income communities. As banks curtailed or reduced their small business lending activities, CDFIs stepped in to fill the gap, often providing credit that was not otherwise available. For some CDFIs, the ability to expand their Target Markets directly depends on the use of alternative accountability mechanisms. Restricting these accountability options would therefore compound the challenges CDFIs face when attempting to expand their geographic reach in the context of existing accountability requirements.

As a CDFI small business lender with a national SBA 7(a) license, CRF would like to become certified to serve a national Target Market comprised of all Investment Areas (eligible census tracts). We noted in a prior comment letter¹ that, under the current certification framework, the Fund has not certified *any* CDFI for a national Target Market that includes all eligible Investment Areas simply because there is no approved mechanism for a CDFI to demonstrate accountability to such a Target Market. Without a national Investment Area (IA) Target Market option, CRF has taken an incremental approach to expanding its original 6 state IA Target Market through the use of alternative accountability mechanisms. Had these alternative mechanisms not been available, we might not have been able to add 9 more states to our original IA Target Market, as we already had established advisory boards for each of the existing 6 statewide Investment Areas. It would have been nearly impossible to manage 15 advisory boards that meet with any regularity. Thus we opted to use a survey mechanism to demonstrate accountability to the credit needs of small businesses in these additional Investment Areas. If the interim rule is adopted as is, how will CDFIs seeking to expand their Target Markets meet the accountability requirements for certification without alternative mechanisms?

II. Fails to address challenges for CDFIs seeking national Target Market(s) that reflect their business model

Eliminating alternative accountability mechanisms fails to address a key shortcomings with the existing certification criteria. The lack of an approved accountability mechanism for a national Investment Area Target Market has come at a high price for CRF and the CDFI industry as a whole. As we described in our earlier

¹ See CRF's Comment Letter on the CDFI Fund's Annual Certification and Data Collection Report Form, September 9, 2014



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comment letter,² when CRF secured a national SBA 7(a) license, we made a significant investment in staff, training and technology to support our new SBA lending product. Without the ability to lend into a national Target Market, we are unable to truly scale our operations and realize the economic benefits of these investments. Our current IA Target Market constrains our ability to compete with the growing array of online lenders who are not subject to any geographic limitations but whose products may not always be the best choice for small business borrowers. Small business lending by its nature is episodic and requires a lender to respond to loan requests across town and across the country. With a national profile, CRF frequently receives loan requests from areas outside of its IA Target Market. It is difficult to turn worthy borrowers away when we know our loan could create economic opportunity so desperately needed in low income communities.

In the absence of a national IA Target Market designation, CRF has been able to qualify some of its small business loans as serving another Target Market for which it is certified. Like a number of CDFIs, we initially applied for and were granted a national Low Income Targeted Population (LITP) Target Market for our multi-family affordable housing financing products. Generally speaking, CDFIs serving a national LITP Target Market are able to qualify their loans by looking through to the "end beneficiary" of the financing being provided. For example, a loan to finance a multifamily affordable housing project using a government program, like the Low-Income Housing Tax Credit (LIHTC), qualifies as serving a Low-income Targeted Population based on program requirements mandating that a certain percentage of the housing units be rented to low-income families. Similarly, a CDFI making a loan to a charter school or a community health center "looks through" the project to the "end beneficiaries" using proxies, such as the number of students receiving free or reduced lunches or the number of Medicaid patients, to verify the financing is serving low-income people.

Unfortunately, it is not as clear cut nor has the CDFI Fund provided any guidance or protocols for qualifying small business loans as serving LITP Target Markets. CDFIs with a LITP Target Market have developed their own methodologies for qualifying small business loans as serving low income populations based on information demonstrating (1) the business owner is a low income person (especially true for microenterprise businesses); (2) the business is hiring low income people; or (3) the employees are residents of low income communities. The absence of CDFI Fund guidance on how to qualify these loans for a LITP Target Market means that no standard or uniform industry methodology exists. Each CDFI has established its own approach and metrics for qualifying their small business loans which has led to debate within the industry as to whether certain metrics for qualifying loans actually promote policies that run counter to the goals of CDFIs. For instance, some question whether qualifying loans to small businesses that create or retain jobs for low income people indirectly promotes lending to firms offering lower wage employment opportunities rather than higher paying positions that can help individuals or families build assets and raise their standard of living and quality of life. CRF has grappled with this issue as we aspire to fund businesses that create living wage jobs. However, we see the benefits of supporting firms offering jobs accessible to low income people. To address this issue, we undertake a detailed analysis of the businesses we finance by the industry code and job classification to determine if these firms offer workers an "opportunity ladder" to advance professionally and build assets.

Finally, although not certified to serve an Other Targeted Population (OTP), we are not aware of any CDFIs that have received a national OTP Target Market certification. Again, it appears the absence of an approved accountability mechanism is a key stumbling block to granting a CDFI a national OTP Target Market. In addition,

² Ibid.



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the CDFI Fund's Certification Application and the Supplemental Guidance and Tips³ refer to an OTP Target Market for a "specified geographic unit" implying a national Target Market is not an option.

III. Out of step with increasing use of data in credit markets and by the CDFI Fund

Phasing out the use of customer surveys, focus groups, and even community meetings runs counter to developments we are witnessing in the credit markets and even at the CDFI Fund. Significant advancements in the internet and the use of technology have fueled the exponential growth of on-line marketplace lending. Central to the success of these lenders is the increasing use of "big" and more granular data to identify new customers, evaluate and approve their loan requests. Using data-driven platforms, many of these lenders can fund loans in a matter of hours through the use of new scoring models or algorithms relying on vast amounts of information that can be quickly analyzed by sophisticated software programs. The ability to collect and process large quantities of data using technology brings new efficiencies to the lending process as well as much deeper and more detailed information about the credit needs of borrowers. The Treasury Department expressed interest in the role these online marketplace lenders play in the small business credit market and recently issued a Request for Information⁴ on, among other things, whether these lenders have the potential to "expand access to credit for historically underserved market segments?" Similarly, small businesses are turning to online lenders to meet their credit needs. According to a survey conducted by Federal Reserve Banks of New York, Atlanta, Cleveland, and Philadelphia between September 9th and November 7th, 2014, 18% of small businesses located in 10 states applied to online lenders for credit.⁵

At the very time credit markets are harnessing data-driven platforms to better understand capital needs of small businesses, the Fund appears to be heading in the opposite direction by excluding the use of surveys, focus groups and community meetings as accountability mechanisms. Many, if not all, of these alternative mechanisms can be adapted for an online environment making it easier to gather information from participants anywhere in the country in real time and at their convenience without leaving their homes or businesses. For example, the Federal Reserve Bank of Cleveland recently published a study of how small business owners view online alternative lenders and their credit products using online focus groups. These focus groups took the form of online discussions that allowed a geographically diverse group of small business owners to share their perceptions of online lenders and to evaluate mock loan products by visiting lenders' websites.⁶ Contrary to the approach adopted in the interim rule, online tools or versions of alternative accountability mechanisms are extremely well suited to capturing information that could help CDFIs demonstrate even *greater* accountability and responsiveness to small business owners in their Target Markets than they could achieve through their governing and/or advisory boards because these mechanisms of the direct connection to borrowers and the highly granular nature of the data being provided/collected.

³ Community Development Financial Institutions Fund, Certification Application, Supplemental Guidance and Tips (Updated through February 2014), page 20.

⁴ <https://www.federalregister.gov/articles/2015/07/20/2015-17644/public-input-on-expanding-access-to-credit-through-online-marketplace-lending>

⁵ <http://www.newyorkfed.org/smallbusiness/SBCS-2014-Report.pdf> , page 13.

⁶ Alternative Lending through the Eyes of "Mom and Pop" Small Business Owners: Findings from Online Focus Groups, A Special Report of the Federal Reserve Bank of Cleveland by Barbara J. Lipman, Federal Reserve Board of Governors and Ann Marie Wiersch, Federal Reserve Bank of Cleveland, August 25, 2015, page 2.



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At the same time, the CDFI Fund is moving towards much greater use of data and online tools to measure and evaluate the impact of CDFIs individually as an industry. In her speech at the 2015 CDFI Coalition Institute in Washington, DC, CDFI Fund Director Annie Donovan stressed the importance of data and how the Fund intends to use data to strengthen the industry. She underlined a lack of data on CDFI impact as a major drawback the industry must address as it inhibits our ability to tell a compelling story about the contribution CDFIs are making in their communities. Improving the quality of data collected as well as greater use of technology to gather this information are important priorities for the Director and will be a focus for the Fund under her leadership. Given the Fund's new emphasis on data and technological modernization of its infrastructure, we are puzzled by the exclusion of accountability mechanisms with the potential to provide rich data on the credit needs of CDFI borrowers in a highly efficient and timely fashion.

IV. Works against the CDFI Fund's mission and other initiatives

By reducing the options accountability options available to CDFIs, the CDFI Fund appears to at odds with its own mission "...to increase economic opportunity and promote community development investments for underserved populations and in distressed communities in the United States."⁷ Fewer accountability mechanisms constrain CDFIs from meeting credit needs of underserved small businesses by limiting the growth of their Target Markets even in the face of clear demand from firms located in eligible census tracts and/or serving low income people outside their designated Target Markets. This is particularly true for CDFIs engaged in small business lending. The Fund actively encouraged CDFIs to participate in the SBA's Community Advantage Program through which they can offer the 7(a) guaranteed loans product.⁸ Opening up the 7(a) program to CDFIs sparked the growth of the CDFI small business lending sector by providing these lenders with a valuable new tool with which to support their borrowers. This new capability was introduced in response to the financial crisis as conventional lenders significantly reduced their small business lending. To meet the demand for credit, many CDFIs have grown their business lending activities by amending and/or adding *all* types of Target Markets and using a variety of accountability mechanisms to do so. Excluding these mechanisms appears counterproductive to the Fund's efforts to encourage CDFI participation in the Community Advantage program so as to make SBA 7(a) loans more accessible to small businesses in low income areas or underserved borrowers.

RECOMMENDATIONS ON THE INTERIM RULE & CDFI ACCOUNTABILITY CRITERIA

CRF would like to offer several recommendations related to the interim rule and the CDFI certification accountability criteria more broadly.

I. Maintain Existing Accountability Mechanisms in the Near Term

The CDFI Fund should preserve the accountability mechanisms currently available to CDFIs. Limiting these options would only further constrain CDFIs seeking to expand or amend their existing Target Markets, especially organizations engaged in small business lending. We know of no good reason to eliminate these alternative mechanisms nor has the Fund explained the reasoning behind this change. If the interim rule is adopted as

⁷ <https://www.cdfifund.gov/about/Pages/default.aspx>

⁸ Letter to CDFI partners from Donna J. Gambrell, Director of the Community Development Financial Institutions Fund, US Department of Treasury, March 25, 2011.



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proposed, at the very least, the Fund should “grandfather” or preserve the rights of CDFIs currently using these alternative mechanisms.

II. Develop National Accountability Mechanisms for CDFI Small Business Lenders Serving IA Target Markets

CDFIs must be able to create impact in the “age of the internet.” For CDFIs with the ability and the tools to deliver credit to a market that is national in scope, there should be an approved and effective accountability mechanism that enables them to do so without having to create 50 advisory boards each with 4 or 5 members. It is simply not possible to manage such a large number of advisory boards with up to 250 members in total. One approach we strongly urge the Fund to consider is to rely on a CDFI’s SBA 7(a) lending designation as a means of assuring accountability to small business borrowers in eligible census tracts. The federal SBA 7(a) program was established to serve borrowers that Congress determined lack access to affordable credit and capital on reasonable terms, and, in particular minorities, women and veterans. It is a nationwide program. By its very existence, the SBA 7(a) program is a federal policy conclusion that small businesses meeting its eligibility requirements and seeking loans of \$5 million or less lack access to credit and capital nationwide. In fact, the 7(a) loan application requires SBA lenders to document the borrower’s inability to obtain credit elsewhere. This application requirement ensures that lenders remain accountable to the borrowers they serve by providing credit to small businesses that are unable to access capital from conventional financial institutions. An Urban Institute report commissioned in 2008 has confirmed that this provision is adhered to by lenders. [See - http://www.urban.org/UploadedPDF/411602_executive_summary.pdf]

III. Develop National Accountability Mechanisms for CDFIs Small Business Lenders Serving OTP Target Markets

We also believe the Fund should create national accountability mechanisms for CDFI small business lenders that seek to lend to Other Targeted Populations nationally. Adding an unspecified number of OTP representatives to an existing governing board can be difficult if the organization’s by-laws include size limitations or other accountability obligations such as for tax-exempt status. We believe there may be more direct and effective ways to demonstrate accountability that could be applied to a national OTP Target Market. Specifically, we would encourage the CDFI Fund to again use the SBA 7(a) program as an accountability mechanism. The SBA has demonstrated that minorities, women and veterans are more likely to obtain a loan through its 7(a) program than in the conventional market. A second 2008 Urban Institute analysis of the 7(a) program⁹ supports the fact that 7(a) is reaching these underserved borrowers. In addition, a 2013 Congressional Research Service analysis concludes that the program meets its goals.¹⁰ Moreover, in December 2010, the SBA launched the Community Advantage Program, a pilot initiative aimed at increasing the number of 7(a) lenders reaching underserved communities by enlisting community-based, mission focused financial institutions such as CDFIs. The CDFI Fund actively encouraged CDFIs to participate in this program as outlined in a letter from Director Gambrell.¹¹

⁹ http://www.urban.org/UploadedPDF/411596_504_gap_analysis.pdf

¹⁰ See <http://www.fas.org/sqp/crs/misc/R41146.pdf>

¹¹ Letter to CDFI partners from Donna J. Gambrell, Director of the Community Development Financial Institutions Fund, US Department of Treasury, March 25, 2011.



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Like the Fund, the SBA requires Community Advantage (CA) Lenders to ensure that at least 60% of their CA loans are made in the CA underserved markets. The same approach could also be applied to CDFIs with a national SBA 7(a) license.

IV. Provide Guidance for Qualifying Small Business Loans Serving LITP Target Markets

Both the CDFI Fund's authorizing statute¹² and the regulations¹³ clearly state that financial assistance provided by the Fund may be used by CDFIs "...to serve investment areas or targeted populations by developing or supporting businesses *that provide jobs for low-income people or are owned by low-income people*" (emphasis added). However, the regulations and the CDFI Fund's supplemental guidance are silent as to how a CDFI can qualify their loans as serving this Target Market. Unlike small business loans serving Investment Areas which can be geocoded using the Fund's mapping system, there is no approved methodology for CDFIs to verify their loans are benefitting a low income population. If CDFIs are certified to serve a LITP Target Market and are explicitly permitted to use Fund resources to make small business loans that support low income people, it would seem appropriate for the Fund to provide guidance on qualifying loans as serving this Target Market. Such guidance would better align certification Target Markets with eligible uses of Financial Assistance. It would also create consistency across the industry and remove uncertainty for CDFIs by establishing an approved set of protocols for ensuring their loans are serving their designated Target Market.

V. Explicitly permit the use of Multi-State or Regional Advisory Boards

When CDFIs expand their Investment Area Target Markets, they should not be required to create separate Advisory Boards for each new geographic unit or area. Adding multiple Advisory Boards becomes difficult to manage and can distract a CDFI from its lending activities and related services. **We would encourage the CDFI Fund to adopt the same approach applied to CDE applicants.**¹⁴ CDEs may demonstrate their accountability to a multi-state or nationwide service area by appointing "to its board a staff person or a board member from a *"nationwide community development organization primarily serving Low Income Communities."* With the growth of the CDFI industry, more organizations are serving larger geographic areas and must have reasonable ways of creating advisory boards that reflect these broader service areas.

¹² Public Law 103-325, Riegle Community Development and Regulatory Improvement Act of 1994, Section 108(b)(1)(B)

¹³ 12 USC §4707(b)(1)(B)

¹⁴ Question #26 of the CDFI Fund's CDE Certification Question and Answer guidance specifically addresses how a CDE can demonstrate accountability to Low Income Communities in its service area if it is serving a large geographic area (e.g., a state, a multi-state region or the entire nation)?

The Fund advises entities that serve a large geographic area should appoint at least one person that is accountable to LICs throughout the service area to its board or advisory board. For example, an organization serving the entire nation should appoint to its board a staff person or a board member from a nationwide community development organization primarily serving LICs. An organization without at least one person on its governing board or advisory board(s) that can reasonably be deemed to be representative of LICs throughout the organization's service area may still be certified as a CDE, provided that the Fund determines that at least 20% of its governing board or advisory board(s) is representative of a cross-section (e.g., urban and rural) of LICs in its service area. Determinations regarding what constitutes a cross-section of a particular service area will be made on a case-by-case basis by the Fund. Organizations, particularly those serving multi-state geographies, may wish to establish multiple advisory boards in order to meet this requirement.



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CONCLUSION

We appreciate this opportunity to share our views and recommendations on the Interim Rule as well as the broader issue of accountability requirements for CDFI Certification. The CDFI brand is gaining greater recognition. It is critical that the certification framework should empower CDFIs to achieve their full potential to positively impact the people and places they serve and not hamstring CDFIs by restricting which low income communities and low income persons can benefit from their services. We urge the Fund to consider using the Interim Rule as an opportunity to address issues that continue to constrain CDFIs from successfully and sustainably competing in the Target Markets they serve. We believe this will enable them to fulfill their mission and that of the CDFI Fund.

We commend the CDFI Fund Staff for their efforts and would be please to answer any questions regarding comments included in this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Frank Altman', written in a cursive style.

Frank Altman
President and CEO



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March 10, 2017

Mr. David Meyer
Certification, Compliance Monitoring and Evaluation Manager
Community Development Financial Institutions Fund
1801 L Street, NW 6th floor
Washington, DC 20036

Submitted via email to cdfihelp@cdfi.treas.gov

RE: CDFI Fund Certification Policies and Procedures

Dear Mr. Meyer:

Community Reinvestment Fund, USA, appreciates the opportunity to provide our views on the CDFI Fund's current policies and procedures used to certify an organization as a Community Development Financial Institution (CDFI) as requested in the *Federal Register* on January 9, 2017. These policies and procedures are important to achieving the mission of the CDFI Fund as certification is the first step to accessing CDFI Fund programs and capacity building resources. However, during the past 23 years, the significance of certification has grown beyond mere eligibility for financial and technical assistance from the Fund. CDFI certification carries the imprimatur of strong community development mission enabling these organizations to not only participate, in other federal programs, but also to access private funding. Most notably, loans and investments in CDFIs are deemed eligible for consideration under the Community Reinvestment Act. Philanthropic institutions and increasingly private "impact" investors have come to rely on this designation as a sign that an organization has a true mission of and commitment to community development.

Overview

CRF is a national, market-driven nonprofit Community Development Financial Institution headquartered in Minneapolis, MN. We tap the capital markets to stimulate growth and job creation in economically challenged rural and urban areas across the country. We use the tools of Wall Street to accomplish our mission of empowering people to improve their lives and strengthen their communities through innovative financial solutions. Since 1988, CRF and its affiliates have delivered more than \$2.2 billion in loans, investments and bonds located in more than 900 communities across the country. In partnership with over 200 local lending partners, we have funded more than 2,600 loans in 48 states and the District of Columbia. Working collaboratively with local lending partners, CRF has helped to improve the lives of more than 1.7 million people annually by financing small businesses, charter schools, health clinics, and community facilities; including more than 19,000 affordable housing units, and creating or retaining 79,000 living wage jobs.

CRF has been an innovator and a participant in a wide range of federal programs. CRF and its affiliate, National New Markets Tax Credit Fund, Inc. (NNMTCF) have become one of the largest New Markets Tax Credit (NMTC) Allocatees in the country, receiving tax credit allocations in seven of the ten funding rounds totaling more than \$830 million and investing



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\$52.5 million on behalf of other Allocatees, providing 393 NMTC loans to date. In 2013 CRF was selected as the first Qualified Issuer (QI) in the inaugural round of the CDFI Bond Guarantee Program. Since that time, CRF has issued four bond transactions on behalf of six CDFIs totaling \$590 million.

With the contraction in bank lending to small businesses during the Great Recession, CRF sought to address the tremendous needs of underserved borrowers and firms located in distressed communities to access appropriate credit products. We obtained one of 14 national non-depository SBA 7(a) licenses to offer this government guaranteed loan product to borrowers unable to obtain conventional credit, typically small businesses located in low-income areas or those owned by women, people of color and/or veterans. Since launching our SBA 7(a) lending product, CRF has made more than 300 7(a) loans totaling \$168 million helping to create or retain more than 5,900 jobs. CRF currently ranks among the top 100 SBA 7(a) lenders in the country.

Comments

CRF would like to thank the CDFI Fund staff for undertaking this review of its certification policies and procedures. This is an issue of particular importance to national CDFIs like CRF for several reasons. As a national organization employing a diverse set of lending and investment products and programs, we strongly support the Fund's stated goal of fostering "...a diversity of CDFI types, activities, and geographies, and to enable market-driven solutions to emerge in a constantly changing economic environment." The world into which CDFIs were born in 1994 has changed in almost every conceivable way. Not only has the number of CDFIs grown from nearly 200 to more than a thousand, but the types of financing products and services offered have expanded to virtually every corner of the financial services field. More importantly, the environment in which CDFIs operate has changed dramatically. Competition from other financial service providers has increased exponentially while the technology used to deliver products and services has undergone a transformation comparable to that which occurred during the Industrial Revolution. Today many potential borrowers seek funding online rather than through conventional institutions. To serve their customers, CDFIs must adopt new operating and business models, new technology tools, develop new partnerships and new ways of thinking about how to achieve their missions.

CDFI certification regulations and guidance – the very passport that allows these organizations to tap vital sources of public and private funding - has largely remained unchanged since the Fund was established. This review of the Fund's certification framework is critical if CDFIs are to be financially sustainable and create meaningful impact for the communities and populations they are committed to serving. Modernizing certification policies and procedures will enable the CDFI industry to define a path to scale. Without such a path it will be difficult – perhaps impossible - to make a difference in the lives of low-income people and places. We believe these policies and procedures can be reformed by creating opportunities for new organizations to become CDFIs *without* sacrificing primary mission.

We are pleased to share our comments and recommendations below on the questions included in the CDFI Fund's Request for information.



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Certification Criteria

Legal Entity

To satisfy the legal entity test, the CDFI Fund requires evidence of an Applicant's incorporation/organization/establishment, such as IRS documentation, establishing documents filed with appropriate authorities, or charter numbers for Insured Depository Institutions and Credit Unions at the time of certification application.

1. *The statute does not indicate how long an organization must be in existence to be considered a "person (other than an individual)." Should there be a minimum period of time an organization should be in existence before applying for CDFI certification? If so, how long? If not, why not?*

In general, an Applicant should be in existence for at least one year before applying for CDFI certification. However, an exception should be made if an existing CDFI sets up a special purpose entity (SPE) and wishes to have this entity certified as a CDFI in order to participate in a federal program. For example, some CDFIs have expressed a need to establish an Affiliate that must also be certified as a CDFI in order for them to participate in the Bond Guarantee Program. The Fund has amended the certification regulation with respect to the financing entity test so as to allow the Affiliate CDFI to rely on the Controlling CDFI's track record in order to meet this test. We believe the requirement that an organization be in existence for one year should be waived for Applicants sponsored by a CDFI for purposes of participating in the BGP. There should be no waiting period for these Applicants as they are created for operational purposes to allow the sponsoring CDFI to access the BGP and therefore should be considered to have been in existence for the same amount of time as their sponsoring CDFI.

2. *Is there additional documentation beyond an organization's establishing documents filed with State jurisdictions that should be accepted to demonstrate that an organization is a legal entity?*

Documents such as articles of incorporation filed with State jurisdictions seem to be the most reliable form of information to demonstrate that an organization is a legal entity. There may be other such documents, that we are not aware of, that would also be acceptable. Other commenters may provide alternative documentation that could be acceptable to the Fund.

Primary Mission

The statute states that a CDFI must have "a primary mission of promoting community development," but specifies few criteria for meeting that test. The CDFI Fund currently allows Applicants for certification to meet this test by providing board-approved organizational documents that demonstrate that the Applicant has a primary mission of promoting community development along with a narrative statement describing how the Applicant's mission is consistent with the CDFI Fund's and a brief description of Financial Products offered. Insured Credit Unions that have received a Low-income Designation from the National Credit Union Administration are deemed to have met this criterion by virtue of their designation.



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1. *Should the currently required board-approved documentation and narrative statement be sufficient to demonstrate an Applicant's primary mission, or should the CDFI Fund apply a more prescriptive primary mission test? For example, should the CDFI Fund provide a more explicit, possibly quantitative, definition of what it means to "promote community development" that Applicants would be required to meet? If so, what should be the definition and what test should be applied? Are there criteria that the CDFI Fund should not consider and why?*

As noted in the RFI, the authorizing statute states that a CDFI must have a "primary mission of promoting community development" but offers no specific criteria as to what constitutes such a mission. We recognize this leaves open the opportunity for Applicants to document a mission of community development that may not be reflected in *all* the activities of the organization. Nevertheless, CRF sees potential danger should the CDFI Fund adopt a more explicit or quantitative definition of what it means to "promote community development."

A foundational principle of the Fund was to encourage a wide range of organizations using a variety of strategies to promote community development in distressed communities and on behalf of historically underserved populations. Allowing Applicants to provide board-approved documentation and a narrative statement to demonstrate a primary mission of community development permits organizations the ability to choose how they wish to meet this requirement. This flexibility fosters innovation in business models, organizational structures and approaches to promoting community development. Imposing a more explicit or quantitative definition would have to take into account the needs of such diverse communities and populations, as well as the capacity of organizations serving these borrowers, making it virtually impossible to set a standard that could be applied to all Applicants.

When determining whether an Applicant meets the primary mission test, the Fund assesses the authenticity of the organization's commitment to its mission rather than the quantity of its lending or investing activities. An Applicant's operating history may be useful in demonstrating its commitment to mission. However, this should not disqualify or be required for new entities so as to allow CDFIs to be established in communities or among populations where no such institution may exist. Applicants should be free to submit information, including the nature and volume of their lending and/or investment activities, but the Fund should not require Applicants to submit such information for purposes of meeting the primary mission test.

Finally, given the power and the tremendous growth in the use of social media and the internet, it might be useful for the CDFI Fund staff to review an Applicant's online presence to ensure consistency between the organization's brand, its messaging and its stated mission of community development. Although, subjective in nature, a review of the Applicant's website, any social media campaigns, as well as how they present their brand online, could provide additional insights as to whether an Applicant has a primary mission of community development.



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2. *Should there be different standards for meeting the primary mission test for nonprofit versus for-profit organizations, particularly for for-profits that are not Insured Depository Institutions? If so, what different standards should be applied?*

No, the same standards for the primary mission test should be applied to both nonprofit and for-profit organizations, regardless of whether the for-profit organization is an Insured Depository Institution. While there are far fewer non-depository for-profit certified CDFIs, we firmly believe that for-profit institutions can maintain a commitment to mission as well as their mandate to earn a profit. The emerging new forms of corporate governance, including B Corps, Low Profit Limited Liability Companies (L3Cs) demonstrates that mission and margin can successfully coexist. We are encouraged by the potential of these new innovative corporate structures to create better social and environmental outcomes for the people and places CDFIs serve.

3. *What evidence can the CDFI Fund use to confirm an Applicant's adherence to a stated community development mission? For example, how can the CDFI Fund distinguish between an organization that is fully committed to a community development mission and one that targets the same communities or populations as a CDFI and claims a community development mission, but whose practices do not demonstrate intent to create community development and/or are predatory in nature?*

CRF wishes to thank the CDFI Fund for raising this very difficult but critical question. For the past 20 plus years, there has been relatively little concern about verifying or confirming an Applicant's stated community development mission. This situation changed with the dramatic growth of predatory home mortgage products that led to the bursting of the so-called "bubble" in the residential mortgage market. The financial crisis and the Great Recession that followed were devastating for low-income communities and their residents. Vast sums of wealth were stripped from families living in these communities who were largely people of color. This experience was a wake-up call for CDFIs on several fronts. They realized their customers had been targeted by large, well-resourced mortgage brokers and lenders with whom they simply could not compete. Not only were CDFIs powerless to prevent what was happening, but many of the borrowers victimized later arrived on our doorsteps looking for a way out of their predatory mortgage products. Many of these competitors were beyond the reach of regulators and free to offer products that were clearly unsafe for consumers. Subsequently, the Consumer Financial Protection Bureau was established and has taken steps to avoid such a crisis in the future.

A parallel scenario is now playing out in the consumer and small business lending arena. The dramatic growth in online marketplace lending is filling the void left by traditional banking sector, which scaled back its small business lending in response to increased regulatory oversight and perceived concerns about risk. Financial technology ("fin tech") firms have flooded the market fueled by an enormous influx of private equity/venture



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capital and the promise of double-digit returns¹. Often these fintech firms are offering predatory loan products online to both small businesses and consumers while operating outside of any regulatory oversight. More and more borrowers, attracted by the speed and ease of accessing a small business or consumer loan from an online lender, are finding themselves saddled with multiple loans from these lenders that they are unable to repay. These customers are increasingly seeking help from CDFIs but in many cases it is too late to save the business.

The danger to CDFI customers is abundantly clear but these predatory lenders also pose a threat to the CDFI industry. Should an organization claiming to have a primary mission of community development be certified without actually adhering to such a mission, the value, the integrity and the very foundation of the CDFI industry could be put at risk. To avoid such a dangerous outcome, there are a number of steps the Fund might take to ensure that only Applicants with a true mission of community development receive the CDFI designation including, but not limited to:

- As discussed in #1 above, a review of marketing materials including, but not limited to, websites, social media campaigns, printed advertisements, or other collateral information available in the public domain could be conducted to affirm the Applicant's adherence to its stated mission. Such a review could be conducted at the discretion of staff or where concerns may exist.
 - Where appropriate, requesting information on past operating history and practices from Applicants that have been in existence and can supply such information, showing the types of loans they offer, profiles of typical customers, and terms of their products. This may not be warranted in all circumstances as will be discussed in greater detail in #4 below and could be handled on a case by case basis.
 - Thorough consideration of how the Applicant demonstrates and maintains accountability (discussed below) to its designated Target Markets can also shed light on whether an Applicant is truly committed to a mission of community development both rhetoric and its practices. An Applicant demonstrating effective mechanisms for accountability provides additional insurance that the Fund is certifying CDFIs with a proper mission of community development.
4. *To what extent should the CDFI Fund evaluate the Financial Products and/or Financial Services offered by an Applicant to determine its ability to meet the primary mission test? What test would the CDFI Fund apply in any such evaluation of Financial Products and/or Financial Services?*

Under most circumstances, the role of the CDFI Fund is not to evaluate the Financial Products and/or Financial Services offered by an Applicant for purposes of meeting the primary mission test. However, the explosion of new

¹According to a [2015 survey conducted by Accenture](#), investments in "FinTech" (Financial Technology – the industry typically associated with marketplace lending) tripled from 2013 to 2014 moving from \$4B to more than \$12B respectively. Investors are citing the opportunity to earn double-digit returns in marketplace lending while often referencing the current lack of small business regulation as primary reason for investing.



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financial products and services, particularly in the residential mortgage, small business, and consumer credit markets has raised concerns about the ability of borrowers to make informed financial choices. While CDFIs pride themselves on providing access to responsible, transparent credit products coupled with development services that help borrowers to be successful, other credit providers, particularly online and marketplace lenders, offer products and services customers simply do not understand and often cannot afford. As noted above, if an organization engaged in predatory lending were to become a certified CDFI, this could profoundly harm the value and the integrity of the CDFI brand.

The CDFI Fund should have the ability to review or evaluate the financial products and/or services being offered by an Applicant to ensure such products and services are not predatory in nature, the terms of the products and /or services are fully and clearly disclosed, and the Applicant does not employ misleading or inappropriate marketing techniques. We understand the challenge lies in trying to establish a standard or test to apply when evaluating financial products and/or services. Clearly, this will require further research and discussion with industry participants but one model the Fund may wish to consider is the Small Business Borrowers Bill of Rights². This bill, fashioned by a multifaceted coalition of organizations, including several CDFIs, defines responsible small business lending based on six fundamental financing principles that all small businesses deserve, and articulates lender and broker practices that uphold these principles. In more highly regulated areas, such as mortgage lending and consumer finance, the Fund could look to existing federal or state laws and regulations to serve as a guide for what is acceptable when evaluating similar products and /or services offered by an Applicant who falls outside the current regulatory framework.

5. *Currently, by statute, Depository Institution Holding Companies wishing to be certified as CDFIs must provide documentation that their parent, Subsidiaries, and Affiliate organizations collectively meet the primary mission test. Should the CDFI Fund also make this a requirement for Non-Regulated CDFIs, for example, a Non-Regulated for-profit financial institution? Why or why not?*

We don't see a need to require Non-Regulated CDFIs to document that their parent, Subsidiaries, and Affiliate organizations collectively meet the primary mission test. In fact, such a requirement might limit the ability of CDFIs to exploring new approaches to increasing the sustainability of their organizations. As it becomes more challenging to raise resources from foundations and government agencies, CDFIs need to adopt innovative financing strategies to support their operations and programmatic activities. Having several entities under the umbrella of a mission-driven CDFI parent could strengthen its financial well-being. Given the changing landscape for funding CDFIs (e.g. potential for significant reduction in federal resources for community development) and

² <http://www.responsiblebusinesslending.org>



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the growing emphasis on achieving self-sufficiency, the Fund should encourage CDFIs to develop creative funding structures and diversify their sources of financial support to scale their mission-driven activities. Furthermore requiring CDFIs to document that their parent, Subsidiaries, and Affiliate organizations collectively meet the primary mission test ignores a glaring oversight in the current certification regulations with regard to off balance sheet entities and activities. Under current regulations, CDFIs engaged in New Markets Tax Credit (NMTC) financing do not receive any consideration for these activities in terms of the Target Market test (addressed below), though they bring vital gap financing and significant community impact. Similarly, CDFIs may facilitate the flow of capital and credit to projects or programs without having their own capital at risk. For example, if an individual CDFI lacks the scale of capital to address a financing need but engages other financial institutions, like banks, to provide credit, the CDFI is strengthening the financial fabric of a community by helping borrowers to access conventional loans. CRF's initiative known as Detroit Home Mortgage (DHM) (<http://www.detroithomemortgage.org>) is just such an example. DHM is designed to address the appraisal gap in Detroit by working with five commercial banks to restart the conforming mortgage market in struggling neighborhoods throughout the city. Under this program, homeowners receive two loans – a conforming first mortgage and a second mortgage – to fund rehabilitation of a home. CRF conceived and launched this initiative. We manage the fund holding the second mortgages. Although we raised grant dollars for DHM, the scale of this operation far exceeds our balance sheet. Unlocking conventional bank financing was the key to success, yet our efforts and the sweat equity we invested are not counted towards our overall CDFI Target Market activities.

When the CDFI Fund was established, it was designed to support the model of a community-based organization serving a local market. As the industry has matured, CDFIs realize that to truly "move the needle" in terms of community impact, they must be able to reach into the capital markets, leverage the balance sheets of larger institutions and utilize technology to facilitate the flow of resources to low-income communities. The role of capital facilitator will become increasingly important if we are to bring about meaningful improvement for the people and places we serve. The Fund should find ways to encourage and recognize this new role for CDFIs, not constrain innovative financing strategies that emerge as CDFIs grapple with a declining pool of public funding sources.

Financing Entity

Insured Depository Institutions and Credit Unions are deemed to automatically meet this criterion. Non-Regulated CDFIs must demonstrate that they engage in direct financial activity (e.g., the provision of Financial Products, Financial Services, and Development Services) as reflected on financial statements and executed notes, and must dedicate a predominance of their assets to Financial Products, Development Services, and/or similar financing.

1. *The CDFI Fund does not currently define the term "predominance," but in practice accepts a plurality of assets as meeting this criterion. Should the term "predominance" be defined more specifically, and if so, how?*

While the CDFI Fund's practice of defining the term "predominance" as a plurality of assets may be less precise than some might like, this definition has afforded CDFIs needed flexibility for the purposes of meeting the



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Financing Entity test. The CDFI Fund uses the Asset Allocation Table contained in Attachment A – the data portion of the CDFI Certification Application to verify that an Applicant is dedicating a “predominance” of their assets to Financial Products, Development Services, and/or similar financing. Our understanding has been that the Fund wants to see that 51% or more of an Applicant’s total assets are dedicated to financing products and related activities (including Development Services). This may be informal guidance but it led us to believe that Applicants/CDFIs were expected to dedicate the majority of their financial and technical assistance resources to financing and similarly related activities. The danger in defining the term “predominance” more precisely is that it could limit the Fund’s discretion when certifying new or existing CDFIs. The strength of the certification process was that it allowed for a dialogue between the Applicant and the staff to discuss the unique structure and operational aspects of individual CDFIs.

The bigger concern we have is that the volume of CDFIs’ off balance sheet activities has been increasing in recent years as these organizations utilize a variety of complex financing products and programs. For example, at the time the Fund was established the only major tax credit program available for community development was the Low-income Housing Tax Credit (LIHTC). Since that time, the New Market Tax Credit program has become a successful tool used by CDFIs to finance high impact projects in communities across the country. CDFIs marshal public and private resources in a variety of ways. Often their financing activities are conducted off balance sheet for tax, legal, or liquidity reasons. Yet these activities are clearly related business lines of the CDFI. Excluding off balance sheet activities does not present a full picture of the Applicant or CDFI as a financing entity. They should be allowed to count these assets for the purposes of this test, not penalized because of balance sheet constraints. We strongly urge the CDFI Fund to permit the inclusion of off balance sheet financing activities (including, but not limited to, New Markets Tax Credit, Low-income Housing Tax Credits, other tax credit transactions as warranted) conducted through Special Purpose Entities (SPEs) and other off balance sheet vehicles so these important financing activities are taken into account.

- 2. Should entities that provide less than a plurality of financing activity ever be considered Financing Entities? If so, under what circumstances and is there a minimum level of activity that should be required?*

Under limited circumstances, entities with less than a plurality of their assets dedicated to financing activity may be considered Financing Activities. One such scenario might involve newly launched or start-up organizations seeking certification with the understanding that the Applicant would achieve a plurality of financing activity within specified time period. A limited degree of latitude should be provided to the CDFI Fund as there may be unanticipated situations where it would be appropriate to waive this requirement for some period of time.

- 3. Currently, the amount of assets and staff time dedicated to financing activities are used to measure the level of a CDFI’s financing activity. How else could a CDFI’s level of financing activity be measured?*



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CRF believes there are alternative ways to measure the level of a CDFI's financing activity beyond the amount of its assets and staff time dedicated to such activities. For example, the CDFI Fund could take a "portfolio" approach to evaluating a CDFI's level of financing activity. This approach would take into consideration all of a CDFI's financing activities both on-balance sheet and off-balance sheet. As noted above in Q #1 and in Q #5 in the Primary Mission section, there should be a way for CDFIs to report on financing activities they *facilitated* – meaning without their involvement financing would not have been provided – but where they did not invest their own capital in the transaction. Thus a CDFI would be measured based on their "portfolio" of financing activities some of which involve direct investment of their own capital and, in other instances, where they invested their efforts in *securing* capital but the resources did not come from their balance sheet.

4. *For Non-Regulated CDFIs, is the current "predominance of assets" test appropriate, or should alternatives or additional considerations be permitted?*

In general, the same standard of "predominance of assets" should be applied to both Regulated and Non-Regulated CDFIs. All types of CDFIs should be subject to the same standards.

5. *Should Non-Regulated CDFIs be permitted to include the financing or Financial Services activity of a mission-driven Subsidiary as part of the assessment of the parent CDFI's financing activities?*

Yes, we support the comments of the CDFI Coalition on this question.

6. *Should Non-Regulated CDFIs be permitted to rely upon the financing or Financial Services activity of a parent CDFI as part of the assessment of the Subsidiary's or Affiliate's financing activities?*

Yes, in certain circumstances Non-regulated CDFIs should be permitted to rely upon the financing activities or Financial Services activity of a parent CDFI as part of the assessment of the Subsidiary's or Affiliate's financing activities. For example, we support the CDFI Fund modification to the certification criteria in April 2015 through an interim rule that permitted an Affiliate of an Eligible CDFI to rely on the Controlling or parent CDFI's track record to meet the Financing Entity test for the purposes of participating in the CDFI Bond Guarantee Program. In this case, an Affiliate of an Eligible CDFI engaged in the CDFI Bond Guarantee program may utilize the activities of its parent CDFI to comply with the Financing Entity requirement for certification. We assume this modification under the Interim Rule remains in place and does not require further action.

7. *Should an organization applying for CDFI certification be required to transact a minimum number or dollar amount of loan or equity investments to be considered a financing entity? Should the Applicant be required to have at least one or more years of loan or equity investment origination? If so, what should those rules be?*



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An organization applying for CDFI certification should be required to transact a minimum number but not dollar amount of loan or equity investments to be considered a Financing Entity. The expectation has been that an organization seeking to become a CDFI should demonstrate its ability to make loans or investments. While there has been no formal minimum number of transactions, it was generally understood that an Applicant should have completed about six loans or investments as evidence of its capacity to extend credit or capital. The CDFI Fund's *Supplemental Guidance and Tips to the CDFI Fund Certification Application* (Updated through February 2014) states on page 17, "An organization that is not a regulated entity must demonstrate that it has begun to use its own capital to provide Financial Products to non-affiliated entities. In general, to be deemed to have begun the use of 'its own capital,' the organization must have closed an appropriate number of transactions within the specified time period to demonstrate that it is in regular operation. In determining the appropriate number of transactions, the CDFI Fund, in its sole discretion, may consider a variety of factors."

We support preserving the CDFI Fund's discretion to determine the appropriate number of transactions an Applicant must complete to show it is in regular operation. CDFIs engage in different types of lending and investing activities and close vastly different numbers of transactions based on the nature of those activities. A CDFI micro-lender typically makes more loans in a given year than a CDFI making venture capital investments. In addition, launching a new CDFI requires a ramp up period when only a few loans or investments may be made. However existing organizations seeking certification may have a much larger number of loans or investments to demonstrate their operational capabilities. There may be instances when it would be beneficial for the CDFI Fund to certify organizations that have not been originating loans or investments for at least a year, such as in the case of communities affected by a natural disaster. Therefore, the Fund should have the ability to exercise discretion when certifying early stage organizations.

On a related note, the Fund should clearly define what is meant by a CDFI's "own capital". All CDFIs receive loans from banks or other funders which they use to make loans to borrowers in their Target Market(s). Often times, banks seeking to meet their Community Reinvestment Act (CRA) requirements provide resources to CDFIs because they have expertise in lending to low-income communities and people. If the capital CDFIs are utilizing comes from financial institutions, foundations, or government sources, can they claim they are truly using their "own capital"? This raises the question of whose capital are CDFIs really using and how long must resources reside on a CDFI's balance sheet in order to be deemed its "own capital"?

Many companies outsource major parts of their business to other firms that have a specific expertise creating networks to more efficiently produce goods and services. Similarly, many in the CDFI industry have begun to embrace the concept of financial networks to increase the scale, productivity and impact of our lending activities. Just as in the case of off balance sheet financing activities discussed above, if CDFIs were to implement lending or financial networks to more effectively deploy capital, where one CDFI might originate a loan using the capital of another organization (which may or may not be a CDFI), would such an approach run afoul of the requirement to deploy one's "own capital"? Would using a networked approach jeopardize a CDFI's certification status or



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prevent an Applicant from being certified as a CDFI, even though breaking up aspects of the lending function might produce a more sustainable CDFI industry and ultimately better outcomes for borrowers and communities? We believe these questions warrant further consideration by the CDFI Fund and discussion with industry participants.

8. *Should an organization that only services loans or Equity Investments or has very few transactions be considered a financing entity?*

In our view, an organization that only services loans or Equity Investments should not be considered a Financing Entity nor should one that has only made a very small number of transactions. While we are not comfortable prescribing a specific volume of lending or investing activity as requirement or threshold for certification, there are some fundamental characteristics of a CDFI. The organization should be engaged in lending and investing on an ongoing basis and while the number of transactions may vary over time and under different economic conditions, there should be a reasonable prospect that the entity will be actively extending its own credit or capital. Simply servicing the loans of another lending organization should not qualify an Application to become a CDFI.

9. *Should certified CDFIs be required to offer loans or Equity Investments each year, in order to maintain certification status?*

Except dire circumstances, such as the financial crisis and the Great Recession, it is reasonable to expect that CDFIs will be offering loans and Equity Investments each year. Like any other lender, CDFIs may decide to expand or contract their suite of credit products in response to market demand or need. Introducing a new financial product or service or discontinuing an offering will reduce origination volume in a given year. There may be periods during which a CDFI suspends its lending or investing activities due to risk or other market factors. The CDFI Fund should exercise its judgment rather than imposing an annual origination requirement for certified CDFIs. Moreover, we urge the Fund to provide a reasonable grace or cure period before revoking a CDFI's certification. A CDFI in this situation should be permitted to engage in a dialogue with CDFI Fund staff to explain the reasons why it has suspended its lending or investing activities.

10. *Currently, non-arms-length transactions do not contribute to meeting the financing entity criteria. For example, transactions made with Subsidiaries and/or Affiliates are not considered to be arms-length transactions. Should some transactions with Affiliates be permissible as evidence of an organization being a financing entity? If so, which ones? How should an "arms-length transaction" be defined?*

No comment.



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11. *Should Applicants be required to disclose the expected amount and types of lending that may be made to Affiliates and Insiders in their certification applications? Should such transactions be limited as a condition of certification? Why or why not?*

No comment.

12. *Current CDFI Program regulations use the term "similar financing activities" in its definition of the term "Financial Products." How should the CDFI Fund determine what is included in "similar financing activities?"*

This phrase was most likely intended to provide the Fund with the option capture financing activities that it had not considered when the certification framework was first established. As the community development field has evolved and become more sophisticated, CDFIs adapted conventional financing products to suit their customers' needs or created new ones altogether. One set of financing activities we believe should be included in "similar financing activities" are those attributed to CDFI Intermediaries. Specifically, placing deposits in certified CDFI credit unions or banks, making loans or providing guarantees to other certified CDFIs, or other means of extending credit or supplying liquidity to certified CDFIs should be included in this category.

It is also important to preserve the Fund's ability to expand the definition of "similar financing activities" so that CDFIs are encouraged to innovate and deploy new products. Community development borrowers deserve access to as wide an array of responsible products and services as possible. The certification criteria should reflect the dynamic nature of financing activities and ensure that CDFIs are not restricted to antiquated tools due to an outmoded framework.

Target Market

Threshold Target Market Test: *Although no threshold level of service is indicated in the statute or regulation, current CDFI Fund policy requires that an organization must serve at least one eligible Target Market and must direct at least 60 percent of all of its Financial Product activities to one or more eligible Target Market to qualify for certification. In general, both the number and dollar amount of the organization's Financial Product activities should be at least 60 percent of all of its Financial Product activities in the most recent fiscal year. If an organization does not meet the 60 percent threshold in terms of either number or dollar amount of transactions (but not both), the organization can provide an argument as to why the figure is less than 60 percent and the CDFI Fund reserves the right to accept or reject the explanation.*

1. *Is the current standard that 60 percent of a CDFI's Financial Product activities must be in qualified Target Markets the right standard? If not, what percentage of transactions should be in and/or to a qualified Target Market to demonstrate that an organization serves that Target Market and why?*



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The current 60 percent standard for the volume of a CDFI's Financial Product activities deployed in qualified Target Markets is appropriate and should be maintained. However, the standard has worked well because of the latitude afforded the Fund when applying this standard to individual CDFIs. As noted in the preamble to this section, while CDFIs are generally required to extend 60 percent of both the number and dollar amount of their lending and/or investing activities in eligible Target Markets, if a CDFI does not meet the threshold in either the number or dollar amount (but not both), the Fund may accept an explanation as to why this situation has occurred and thus deem the CDFI to be in compliance with its certification requirements. This flexibility is crucial for CDFIs that make a large number of small loans (such as small business loans) as well as a small number of large loans (like multi-family affordable housing loans). A CDFI with this type of product mix may be able to meet the 60 percent test based on the dollar volume of its lending activities but not on the basis of the number of its loans.

We wish to reiterate the recommendation proposed in Q #1 of the Financing Entity section that CDFIs be permitted to count their off balance sheet financing activities, and specifically their NMTC transactions, towards the 60 percent threshold. CDFIs use these financing programs to complement their other lending/investing activities. They are clearly mission-aligned lines of business. Excluding off balance sheet activities does not present a full picture of how the Applicant or CDFI is serving its Target Market(s). They should be allowed to include these assets for the purposes of the 60 percent test, rather than being penalized for choosing to use tax credits or other off balance sheet strategies to meet their borrowers' financing needs. We strongly recommend that the CDFI Fund allow CDFIs to include NMTC and other similar off balance sheet financing activities conducted through Special Purpose Entities (SPEs) and similar vehicles so these important financing activities are taken into account under the Target Market test.

2. *Should there be different thresholds for different institution types (i.e., Insured Depository Institutions and Credit Unions, nonprofit loan funds, and venture capital funds)?*

No, a uniform threshold should be provided across all types of CDFIs regardless of the type of institution. This standard has worked well in the past and should remain in place.

3. *The CDFI Fund currently relies on self-reported summary data submitted by Applicants to demonstrate that they meet the Target Market threshold test. Should statistical sampling of transactions be required to establish a current baseline of activity and document the Target Markets that they are serving?*

It is not clear why the CDFI Fund is raising the question of whether to make statistical sampling of transactions required and therefore, we have no comment.

4. *The August 31, 2015 Interim CDFI Program Regulations added the provision of Financial Services as a means of demonstrating that an applicant serves a Target Market. However, the CDFI Fund does not currently have a*



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method of recognizing or applying the provision of Financial Services toward the current 60 percent threshold test for certification. In addition to the level of Financial Products provided by an Applicant, how should an Applicant receive credit for the provision of Financial Services toward meeting any threshold test? How should this be measured? If an Applicant requests credit for providing Financial Services, should there be a separate minimum level of Financial Products that must be provided by the Applicant?

CRF does not offer Financial Services as defined by the CDFI Fund and has no comment on this question.

- 5. The CDFI Fund currently first considers an Applicant's financial activity during its most recent fiscal year in determining whether it meets the threshold test. Is this the appropriate time period to consider, or should a longer period of time be considered? If so, should the Applicant be required to meet the threshold in each year of the test, for a time period, or should an average be considered? Should the CDFI Fund consider an Applicant's portfolio of loans outstanding?*

The CDFI Fund should consider a 3 year rolling average of a CDFI's financial activity to determine whether it meets the threshold test. Normal variations in lending activity occur and major disruptions such as the Great Recession make it difficult to apply this test to a single year of financing activity.

We also recommend that the CDFI Fund reinstate its policy of recertifying CDFIs every three years as annual certification presents a significant burden for many, especially smaller, CDFIs. At the very least, the Fund should consider recertifying CDFIs every two years so as to reduce this challenging reporting requirement.

Investment Areas: The statute requires that an Investment Area must meet at least one of the economic distress criteria (poverty rate greater than 20 percent; Median Family Income (MFI) at 80 percent or below specific MFI benchmarks; unemployment rate 1.5 times the national average) and has significant unmet needs for Financial Products and Services, or is wholly located within an Empowerment Zone or Enterprise Community.

- 1. The CDFI Fund's current practice is to define Investment Areas that are composed of one or more units of geography that meet certain distress criteria. Units include but are not limited to counties, census tracts, and Indian Reservations. Should the CDFI Fund change this practice? If so, how?*

In our view, the CDFI Fund's definition of Investment Areas is outmoded and potentially harmful to its mission in light of the profound changes taking place in certain markets. The small business lending arena is a prime example of why the Investment Area definition is too narrow. This market has undergone a major shift in new technology and delivery systems that are revolutionizing how small businesses obtain loans. Speed and ease of access are propelling the growth of national online and market-place lenders. Although the lion's share of small business credit is still provided by depository institutions, a new generation of customers raised on video games and comfortable operating on their smart phones could ultimately make conventional lenders obsolete.



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CRF has always had a business model of delivering small business and other financing products to borrowers in low-income communities across the country. We firmly believe the future of small business lending in all communities and among all types of borrowers, including those unable to access traditional forms of credit, lies in meeting small business owners where they are while providing responsible loan products through a process that is seamless, simple, and fast. In the wake of the financial crisis, we became one of three CDFIs with a national SBA 7(a) license. We quickly discovered the enormous pent up demand for small business loans as banks retreated from this market, especially for loans below \$1 million. As a CDFI, our mission is to empower borrowers through innovative financing solutions. Just like the internet, our borrowers know no geographic boundaries. Even with an expanded set of states comprising our Investment Area Target Markets, we clearly see a compelling need for a National Investment Area (IA) Target Market designation. We address this need and how the CDFI Fund can properly implement such a Target Market in the National Target Markets question below as well as in the Accountability section of this comment letter.

2. *Currently the CDFI Fund allows Investment Areas to be composed of a set of contiguous geographic units that may include a small portion of units that individually do not qualify as Investment Areas. Should the CDFI Fund continue this practice, or should all units within the Investment Area meet the Investment Area qualifications?*

The CDFI Fund should continue the practice of allowing a set of contiguous geographic units to qualify as Investment Areas even if they include a small portion of units that individually do not qualify. Contiguous geographic units often share a lack of private capital investment even though a business on one side of a street is in an eligible census tract while another on the other side of the street is not.

Targeted Populations: *Targeted Populations include Low-Income Targeted Populations (LITP) and Other Targeted Populations (OTP) for a specific geographic unit. LITP, for a specified geographic unit, by statute includes individuals whose family income (adjusted for family size) is 80 percent of the area MFI (for metropolitan areas). LITP in non-Metropolitan Areas is the greater of 80 percent of the area MFI; or 80 percent of the statewide non-Metropolitan Area MFI. The CDFI Fund currently includes, for a specific geographic unit(s), African-Americans, Hispanics, Native Americans, Native Alaskans, Native Hawaiians, and Other Pacific Islanders among the groups automatically considered eligible for an OTP Target Market. Applicants are permitted to seek OTP recognition for other populations by demonstrating that the group lacks access to capital.*

1. *Should the Targeted Populations be expanded to automatically accept more specifically defined Other Targeted Populations that are eligible for other Federal programs that support economic development in Low-Income communities? If so, which ones and why?*

The CDFI should automatically expand the definition of OTP to match those that are eligible for other Federal programs that support economic development in Low-Income communities. As we have suggested in an earlier



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comment letter³ the demographics of small business owners in this country are changing, especially in low-income communities and for underserved borrowers. As more and more CDFIs offer SBA products, accepting a broader definition of OTP will facilitate greater use of mutually reinforcing programs.

We urge the CDFI Fund to align its definition of OTP with what the SBA deems to be a “minority-owned” or “socially disadvantaged” firm. Under the Minority Small Business and Capital Ownership Development program, also known as the 8(a) Business Development (BD) program, individuals who are members of the following groups are deemed to be “socially disadvantaged” based on the fact they have been subject to “racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities”: Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians); Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China (including Hong Kong), Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal) (13CFR 124 §124.103).

As the SBA has determined individuals in these racial, cultural, and ethnic groups face discrimination affecting their ability to access credit, we also request that CDFIs be certified to serve Target Markets using this expanded definition of OTP without having to undertake additional research or producing further studies documenting that these individuals lack access to affordable credit.

2. *CDFIs currently are approved to serve Targeted Populations within a defined geographic unit at below and up to a national level. Should all Applicants proposing to serve Targeted Populations be approved to serve such Target Markets nationally?*

CDFIs approved to serve Targeted Populations should not be automatically approved to serve such Target Markets nationally. As a national CDFI, we believe an organization should make an intentional decision to serve a national Target Market(s). Therefore, a CDFI's business model, operational strategies and capabilities should reflect a national focus. These organizations should specifically request national certification and demonstrate their ability to serve such a market to the Fund. Similarly, CDFIs wishing to serve one or more states should be allowed to do so assuming they can demonstrate their capability to serve a statewide or multi-state market.

³ See CRF's Comment Letter on the CDFI Fund's Annual Certification and Data Collection Report Form, September 8, 2014.



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National Target Markets: *Currently, in order to be certified with a Target Market national in geographic scope, CDFIs need to show that they have conducted their financing activities broadly across the variously defined regions of the country, (e.g. Northeast, West, Midwest, South, Southeast, etc.).*

1. *Given that it is unlikely that most CDFIs that work broadly across the nation will complete transactions in every State every year, how can organizations demonstrate that they serve a national Target Market, whether for an Investment Area or for a Targeted Population? Should there be a certain minimum geographic dispersion of actual investments?*

During the course of our 28 year history, CRF has extended credit in 48 states and the District of Columbia. We agree, it is highly unlikely that a CDFI will complete transactions in every state each year. The volume of CDFI lending activities is not large enough to achieve this level of geographic dispersion in such a short time. However, as an active small business lender, we strongly believe CDFIs, like any other lender or investor, need to be able to respond to demand in their Target Market(s).

If an Applicant or existing CDFI requests National Target Market certification, and can demonstrate both the intent and capacity to serve such a Market either by virtue of its historical track record of making geographically dispersed loans or investments, or through some other means acceptable to the Fund, then such an Applicant/CDFI should be granted national certification. Depending on how long the Applicant/CDFI has been in operation, a minimum geographic dispersion of actual loans or investments might consist of transactions in more than a specified number of states. Traditionally, when considering an application for national certification, the CDFI Fund has looked for loans/investments in groups of states including: the northeast, southeast, south central states, north central states, northwest, and the south west. We strongly encourage the Fund to consider an Applicant's or CDFI's entire portfolio of loans over time as evidence of its ability and willingness to make loans/investments on a national basis. An Applicant or CDFI should not be penalized for lack of loans or investments in a given state or states in a particular year, as this may reflect lack of demand for credit during a certain period of time.

2. *Some CDFIs serve multiple markets that are part of a multi-State region or are comprised of geographically unconnected markets. When should the CDFI Fund recognize these practices as constituting a national Target Market?*

As noted in our comments above (Targeted Populations Q #2), CDFIs seeking national Target Market certification should make an intentional decision to serve such a market and this decision should be clearly reflected in their business model, the operational structure and the organizational goals. We do not believe the CDFI Fund should make a determination about whether a CDFI serving multiple markets should be deemed to be serving a national Target Market.



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Additional Recommendations on Target Markets:

The Fund should be permitted to certify Applicants and / or CDFIs Investment Areas and Targeted Populations before they have made a loan or investment in the requested Target Market. This requirement prevents new Applicants and existing CDFIs from entering new Target Markets and limits their ability to bring valuable products and services to underserved areas and individuals. It is an artificial cap on CDFI growth and impact. Instead Applicants and / or CDFIs should be asked to demonstrate through plans (e.g. business, marketing, or strategic plans), partnerships, research, or outreach activities they have conducted, as well as past expansion efforts, their intent and capacity to deliver financing products and / or services in a new Target Market(s).

Development Services

A CDFI directly, through an Affiliate, or through a contract with another provider, must have a track record of providing Development Services in conjunction with its Financial Products and/or Financial Services. Development Services means activities undertaken by a CDFI, its Affiliate or contractor that promote community development and shall prepare or assist current or potential borrowers or investees to use the CDFI's Financial Products or Financial Services. For example, such activities include, but are not limited to, financial or credit counseling; homeownership counseling; and business planning and management assistance.

1. *Should the CDFI Fund more explicitly define Development Services? If so, how should it be defined?*

The CDFI Fund should create a new category of Development Services comprised of services to other CDFIs. This new category would include loan servicing, contract underwriting, technology and other services that build or enhance the capacity of mission-aligned lenders including, but not limited to, CDFIs, public and/or private nonprofit organizations lending or investing in low-income communities or to low-income or disadvantaged populations. This new category draws on the approach described above (Financing Entity Q # 7) as to how financial networks or in this case, value exchange networks, might increase the scale, financial sustainability and community development impact of the CDFI industry. In a value exchange network, one CDFI provides services to another CDFI (or mission-aligned organization) enabling the recipient organization to be more effective in their community development lending or investing activities. Examples of CDFIs offering such services include: Pacific Community Ventures' national online business advisory services platform (<https://businessadvising.org/>) and its impact evaluation service (*Insight*); Reinvestment Fund's data service (Policy Map); or CRF's high touch contract loan servicing function that currently services 6700 loans totaling \$1.2 billion on behalf of 52 organizations. We provide this service so that smaller CDFIs and nonprofits unable to make the necessary financial investments in infrastructure, technology and staffing have access to a high quality loan servicing platform. This service allows mission-driven lenders to focus on what they do best, making loans to low-income borrowers and projects and improves outcomes for their borrowers by providing loan servicing that is sensitive to their needs.

Development Services have evolved since the CDFI Fund was established. The Fund should expand the definition of Development Services by creating a new category to encompass high value services that improves the productivity and multiplies the impact of CDFIs and other nonprofit, mission-aligned lenders. We welcome a



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dialogue with CDFI Fund staff, as well as industry participants, to capture and more clearly define these services and how they might be accounted for as a new category of Development Services.

2. *Should the CDFI Fund require CDFIs to provide a corresponding Development Service for each Financial Product and Financial Service?*

CDFIs should *not* be required to provide corresponding Development Services for each Financial Product or Service offered. CDFIs should be accorded the flexibility to provide Development Services based on their business model, their evaluation of the market need as well as that of individual borrowers. Some borrowers may require such services and some may not. Moreover, under existing certification regulations, Development Services *do not* have to be offered by the CDFI itself, but may be provided by a third party contractor. How and what types of Development Services are made available to customers in conjunction with a CDFI's Financial Products or Services should remain at the discretion of the CDFI with the expertise to evaluate whether a borrower needs services and which ones will best meet their needs.

3. *Should a certified CDFI be required to offer each Development Service each year to maintain certification status?*

Requiring a CDFI to offer Development Services each year to maintain certification status seems highly prescriptive and contrary to the definition of a CDFI. Instead, the Fund should look to the intent and capacity of a CDFI to offer Development Services. Through the recertification process, the Fund has the ability to monitor the Development Services offerings of a CDFI. Should the Fund have concerns that a CDFI is failing to comply with this test, it has the option of entering into a dialogue with the CDFI and/or to take specific steps to remedy the situation. Ultimately, the Fund has the ability to decertify or not renew the certification of any CDFI it believes no longer meets the requirements set out in the regulations and accompanying guidance.

Accountability

The CDFI Fund currently requires that a CDFI maintain accountability to its Target Market through representation on its governing board and/or advisory boards. Prior to recent changes in the regulation, a CDFI could demonstrate accountability through other mechanisms such as focus groups, community meeting, and/or customer surveys.

1. *What percentage of a CDFI's board members should satisfy accountability rules? Should different percentages apply to different types of boards, i.e. governing vs. advisory boards?*

CRF believes a CDFI should maintain accountability to its Target Market(s) through its governing board. Governing boards have responsibility for overseeing the operations of a CDFI and therefore have the ability to hold the organization accountable to its Target Market(s). We fully support the use of other accountability mechanisms (as discussed below) to complement or supplement the role of the governing board in ensuring a CDFI is responsive to the needs of borrowers in its Target Market(s). CDFIs should be allowed to establish



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advisory boards if they wish to gain additional understanding and insights as to the credit and capital needs in its Target Market(s) but their ability to ensure an organization is complying with the accountability test is far more limited than that of a governing board.

As to what percentage of a CDFI's board members are needed to satisfy accountability rules, we agree with the comments of the CDFI Coalition's Memorandum to Director Donovan⁴, which urge the CDFI Fund to adopt the approach applied to the certification of CDE applicants for both advisory and governing boards. To be a certified CDE 20 percent of the governing or advisory board members must be accountable and can be accountable to larger geographic areas.⁵ For CDE certification, a governing or advisory board member can be "an employee or board member of a non-affiliated community-based or charitable organization that provides more than 50 percent of its activities or services to Low-Income Persons and/or LICs [Low-income Communities]⁶.

2. *Is representation on an advisory board sufficient to demonstrate accountability?*

As we noted in Q #1 directly above, we do not view advisory boards as sufficient to demonstrate accountability. They may be used to augment the accountability provided by a CDFI's governing board but should not be relied on in and of themselves to ensure accountability.

3. *Should CDFIs be able to demonstrate accountability through means other than board membership? If so, how?*

Again as noted above, we believe governing boards should be the primary mechanism through which CDFIs demonstrate accountability to their Target Markets. That said, CDFIs should be accorded flexibility if they chose to augment or supplement this primary mechanism with other methods of maintaining accountability, especially if they have multiple Target Markets. As we explained in our comment letter on the CDFI Fund's Interim Rule⁷, we

⁴ CDFI Coalition, pg. 9.

⁵ In the Fund's CDE Certification Question and Answer guidance, the Fund directly addresses having board members accountable to large regions or nationwide: "**26) How do I demonstrate accountability to LICs in my service area if I am serving a large geographic area (e.g., a state, a multi-state region or the entire nation)?** The Fund advises entities that serve a large geographic area should appoint at least one person that is accountable to LICs throughout the service area to its board or advisory board. For example, an organization serving the entire nation should appoint to its board a staff person or a board member from a nationwide community development organization primarily serving LICs. An organization without at least one person on its governing board or advisory board(s) that can reasonably be deemed to be representative of LICs throughout the organization's service area may still be certified as a CDE, provided that the Fund determines that at least 20% of its governing board or advisory board(s) is representative of a cross-section (e.g., urban and rural) of LICs in its service area. Determinations regarding what constitutes a cross-section of a particular service area will be made on a case-by-case basis by the Fund. Organizations, particularly those serving multi-state geographies, may wish to establish multiple advisory boards in order to meet this requirement."

⁶ CDE Certification Board Table pdf, available on the CDFI Fund's websites at <https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx>.

⁷ CRF, October 26, 2015.



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were disappointed by the Fund's decision to eliminate the use of several accountability mechanisms including community meetings, focus groups, and customer surveys. This change significantly reduced the options available to CDFIs to strengthen their accountability resources.

We respectfully recommend that the Fund:

- a) Reinstate the use of community meetings, focus groups, and customer surveys and work with the CDFI industry to address past shortcomings associated with these accountability mechanisms. We see great potential for all three of these methods given the rise of virtual communities and new channels for communication. These alternative mechanisms can be adapted for an online environment making it easier to gather information from participants anywhere in the country in real time. For example, the Federal Reserve Bank of Cleveland published a study of how small business owners view online alternative lenders and their credit products using online focus groups. These focus groups took the form of online discussions that allowed a geographically diverse group of small business owners to share their perceptions of online lenders and to evaluate mock loan products by visiting lenders' websites.⁸ This study demonstrates how alternative accountability mechanisms adapted for an online environment are extremely well suited to capturing information that could help CDFIs demonstrate even *greater* accountability and responsiveness to small business owners in their Target Markets, particularly if those Target Markets encompass large geographic areas. In addition, online focus groups, community meetings, and/or surveys provide a direct connection to borrowers in their Target Markets.
- b) Permit the use of alternative mechanisms. Specifically, we strongly urge the Fund to consider relying on a CDFI's SBA 7(a) lending designation as a means of assuring accountability to small business borrowers in eligible Investment Area census tracts. The federal SBA 7(a) program was established to serve borrowers that Congress determined lack access to affordable credit and capital on reasonable terms, and, in particular minorities, women and veterans. It is a nationwide program. By its very existence, the SBA 7(a) program is a federal policy conclusion that small businesses meeting its eligibility requirements and seeking loans of \$5 million or less lack access to credit and capital nationwide. In fact, the 7(a) loan application requires SBA lenders to document the borrower's inability to obtain credit elsewhere. This SBA application requirement ensures that lenders remain accountable to the borrowers they serve by providing credit to small businesses that are unable to access capital from conventional financial institutions. An Urban Institute report commissioned in 2008 confirmed that lenders adhere to this provision.⁹ While the SBA does not require 7(a)

⁸ Alternative Lending through the Eyes of "Mom and Pop" Small Business Owners: Findings from Online Focus Groups, A Special Report of the Federal Reserve Bank of Cleveland by Barbara J. Lipman, Federal Reserve Board of Governors and Ann Marie Wiersch, Federal Reserve Bank of Cleveland, August 25, 2015, page 2.

⁹ <http://www.urban.org/research/publication/key-findings-evaluation-small-business-administrations-loan-and-investment-programs>

loans be made in CDFI-eligible Investment Areas, CDFIs with a national SBA 7(a) license seeking to use this accountability method could be required to direct their lending activities to qualified Investment Areas. A similar approach could also be applied to CDFIs with a national 7(a) license that would like to use this product to serve a national OTP Target Market. The SBA has also demonstrated that people of color, women and veterans are more likely to obtain a loan through its 7(a) program than in the conventional market. A second 2008 Urban Institute analysis of the 7(a) program¹⁰ supports the fact that 7(a) is reaching these particularly underserved borrowers. In addition, a 2013 Congressional Research Service analysis concludes that the program meets its goals.¹¹

- c) *Develop new accountability mechanisms harnessing innovations in data and data gathering techniques.* Dynamic changes in technology offer the opportunity to gather and analyze information about local credit conditions using new data sets available through online platforms. For example, using new data tools, such as google earth and google maps, it is possible to find an address, view a photo of a building thousands of miles away from a personal computer. Much more granular data is also available with the advent of big data. Policy Map includes a state level data set called *Longitudinal Employer Household Data* that allows users to profile small businesses by geography, by the percentage of low-income workers they employ, and whether or not have they have received small business loans. This data tool could help a CDFI determine if small firms located in eligible census tracts and employing low-income workers are having difficulty accessing credit. Armed with this knowledge, CDFIs could work directly with small businesses across the country to fulfill their credit needs with appropriate loan products.

Another example of how data is being used to address community development challenges is the Motor City Mapping project, a comprehensive analysis of all 380,217 parcels of land in the City of Detroit. This effort brought experts from Data Driven Detroit, a data intermediary that partners with socially-minded groups seeking data to drive decision-making, and Loveland Technologies, a private data mapping firm, together to create this survey of blighted buildings in Detroit to help city officials decide what to do about them. This information also informs CDFIs working in the city as they develop residential lending rehabilitation financing programs to repopulate and revitalize distressed neighborhoods.

The ability to collect and process large quantities of data using technology brings new efficiencies to the lending process as well as much deeper and more detailed understanding about the credit needs of borrowers. The Fund should encourage and collaborate with CDFIs in developing these new tools.

¹⁰ <http://www.urban.org/research/publication/competitive-and-special-competitive-opportunity-gap-analysis-7a-and-504-programs>

¹¹ <http://www.fas.org/sgp/crs/misc/R41146.pdf>



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4. *Is a business plan and a stratified, statistically significant random sample of lending by asset class and location sufficient to document accountability? Under what circumstances?*

We have no comment on this question.

5. *Should accountability requirements differ based on a CDFI's type of Target Market, and if so, how?*

No, accountability requirements should not vary based on CDFI type or Target Market. However, CDFIs should have a variety of tools available to meet this requirement and they should choose the tools best suited to their business model, the Target Market(s) they serve, and the Financial Products and/or Services they offer. Different communities and populations have different credit and capital needs. Accountability is essentially "market research" or determining what credit gaps exist in the market and how can a CDFI help borrowers overcome those gaps. There are many ways to assess the need or conduct market research, including soliciting public input through hearings and comment periods, but we believe data provides valuable insights in helping CDFIs determine and address community credit needs. The accountability requirements should encourage greater use of data by CDFIs in designing their financing activities and support services to ensure they are responsive to the credit needs of borrowers in their Target Markets.

6. *How should the CDFI Fund assess accountability if a CDFI's Target Market includes borrowers or investees who are not members of a Targeted Population themselves (e.g., small businesses, micro businesses, and affordable housing developers, charter schools), but whose "end-beneficiaries" are?*

As a CDFI with a national LITP Target Market, we face this question with regard to both our multifamily affordable housing and small business lending activities. In practice, many CDFIs serving a national LITP Target Market qualify or verify the accountability of their loans by looking through to the "end beneficiary" of the financing being provided. For example, a loan to finance a multifamily affordable housing project using a government program, like the Low-Income Housing Tax Credit (LIHTC), qualifies as serving a Low-income Targeted Population based on program requirements mandating that a certain percentage of the housing units be rented to low-income families. Similarly, a CDFI making a loan to a charter school or a community health center may "look through" the project to the "end beneficiaries" using proxies, such as the number of students receiving free or reduced lunches or the number of Medicaid patients, to verify the financing is serving low-income people. However none of these practices have been approved or blessed by the Fund in regulation or guidance.

The situation becomes more complicated when applied to small business lending activities as "end beneficiaries" are not as easily identified or defined. CDFIs with a LITP Target Market certification have developed their own methodologies for qualifying small business loans as serving low-income populations based on information demonstrating (1) the business owner is a low-income person (such as for microenterprise businesses); (2) the



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business is hiring low-income people; (3) the business provides jobs accessible to low-income people; or (4) the employees are residents of low-income communities. The absence of CDFI Fund guidance on how to verify that these loans are serving LITP “end beneficiaries” means each CDFI has developed its own approach and metrics for qualifying their small business loans. This situation has led to debate within the industry as to whether certain metrics for qualifying loans promote policies that are contrary to the goals of CDFIs. For instance, some question whether qualifying loans to small businesses creating or retaining jobs for low-income people indirectly promotes lending to firms offering lower wage employment opportunities rather than higher paying positions that help individuals or families build assets, raise their standard of living and quality of life. CRF has grappled with this issue as we aspire to fund businesses that create living wage jobs. However, we see the benefits of supporting firms offering what we refer to as “job ladders” or positions that are accessible to low-income people and allow employees to advance to higher paying, more responsible positions within the business. Our approach has been to undertake a detailed analysis of the businesses we finance by the industry code and job classification to determine if these firms offer workers an “opportunity ladder” to advance professionally and build wealth.

We have asked the CDFI Fund to provide guidance on this issue in two previous comment letters.¹² The absence of uniform industry standards for CDFIs means these organizations run the risk of unintentional non-compliance. We recommend that the Fund develop specific protocols for verifying different types of loans or investments based on the nature of the borrower/project and the “end beneficiaries”. CDFIs should be permitted to use various proxies to automatically qualify their loans to easily demonstrate accountability to their Targeted Population (TP) Target Markets. For example, financing an affordable housing project developed with the LIHTC, a charter school serving children eligible for free or reduced lunches, or a community health center whose patients receive Medicaid, should qualify as loans or investments to eligible TP Target Markets. The Fund should seek comment from the CDFI industry and interested stakeholders on the specific proxies to be used when qualifying financing activities that support “end beneficiaries”. The list of proxies should be regularly updated as CDFIs are continually finding new ways to serve “end beneficiaries”

Given the complexities associated with vetting the accountability of small business loans, the Fund staff should solicit additional comments from CDFIs engaged in this type of financing to develop a specific set of protocols for this asset class. It may be difficult to qualify all small business loans using a single methodology or measure, we recommend that CDFIs be allowed to demonstrate accountability to small business “end beneficiaries” based on one of the four approaches described above: lending to low-income business owners, businesses that hire low-income people; businesses that provide jobs accessible to low-income people; or whose employees live in low-income areas. There may be other ways to qualify small business loans serving “end beneficiaries” as well. We welcome the opportunity to work with Fund staff as they develop this important guidance.

¹² See CRF’s Comment Letters on the CDFI Fund’s Interim Rule implementing the CDFI Fund Program, October 26, 2015 and its Annual Certification and Data Collection Report Form, September 8, 2014.



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7. *How should a CDFI demonstrate accountability to a national Target Market, in particular an Investment Area national in scope? Should there be a requirement to have local accountability to supplement a national governing or advisory board? In this context, how should the term "local" be defined?*

CRF *firmly believes* a national Investment Area Target Market is essential to the future of the CDFI industry. As a national, non-profit financial institution and certified CDFI, with a national SBA 7(a) license, we have a unique perspective on this question. During the past six years, we have found ourselves faced with the challenge of turning away worthy borrowers simply because they fall outside of our existing set of Target Markets. This also places financial constraints on our overall capacity to carry out our mission. We applaud the Fund raising this crucial question and we urge staff to work with industry participants, like CRF, to craft a national accountability mechanism that allows CDFIs to help the millions of small business borrowers whose *only* other credit source may be an online or marketplace lender offering predatory or inappropriate loan products that will ultimately harm their business.

As we described in question #3, there are a number of other ways a CDFI could demonstrate accountability to a national Target Market composed of Investment Areas. The Fund could utilize a designation from an established and proven federal program, such as the SBS 7(a), to serve as a proxy or means of verifying that a CDFI is accountable to the credit needs of borrowers in a national IA Target Market. It should be noted that with the exponential growth of marketplace and online lenders the small business credit market in this country has become, for all intents and purposes, a national market. Using the SBA 7(a) designation as an accountability mechanism would simply level the playing field for CDFIs rather than continuing to put them at a competitive disadvantage vis a vis these platform lenders.

The CDFI Fund could also reinstate accountability methods, like focus groups, including online groups, community meetings, and customer surveys, with guidance as to how they could be utilized at a national level to demonstrate a CDFI is satisfying the accountability test. As noted above, these methods could be adapted for an online environment and implemented or delivered to a virtual community that is national in scope.

As noted above, there is a tremendous opportunity to harness innovations in data and data gathering techniques. New technology tools exist, never envisioned when the Fund was first established, that make it possible to collect and analyze vast quantities of highly granular data in real time. Online and marketplace lenders are using this data to reach borrowers CDFIs will never be able to reach if we rely on existing channels and methods.

As to the question of having local accountability to supplement a national governing or advisory board, in our view this should not be a requirement but rather should be up to the CDFI how they choose to serve and remain accountable to their Target Market(s). If a CDFI wishes to supplement its knowledge of its Target Market(s) with other forms of accountability such as an advisory board, focus groups, or customer surveys, they should be able to do so and to determine how they wish to define the term "local" for the purpose of this additional form of accountability.



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8. *How should an Applicant that utilizes a web-based lending platform, especially one that serves a national Target Market, demonstrate accountability?*

Applicants using a web-based lending platform should be afforded the same mechanisms for demonstrating accountability as other Applicants. They should be able to utilize governing and/or advisory boards, as well as the other accountability tools we proposed the Fund should adopt in Q #3 above. In addition, web-based Applicants may create new approaches to demonstrating Target Market accountability and the Fund should remain open to reviewing and updating CDFI certification criteria to incorporate new mechanisms. For example, CRF designed and implemented a survey in collaboration with a group of nonprofit community lenders and business advisory service providers to better understand the needs of small businesses in Baltimore. We launched the survey and collected responses through an online tool we developed known as Connect2Capital. The responses were used to inform the development of new financing products and support services for entrepreneurs and small businesses in Baltimore City, a community struggling with high poverty and social unrest. Web-based platforms can gather or analyze the credit needs of low-income communities and underserved borrowers in a far more efficient and objective fashion by tapping a host of new data sources available through online resources such as Policy Map, the Motor City Mapping project, as well as municipal websites, like the City of Chicago's Data Portal, that offer information on a wide variety of economic and community development activities at the local level. The growth of civic data resources such as the Civic Data Design Lab at MIT also offers a wealth of information and potential for collaboration with new partners CDFIs never dreamed of when the Fund was first created. Our expectation is that web-based platforms will have the expertise, talent and technology to pioneer new ways of demonstrating accountability by developing and delivering credit products well suited to the needs of borrowers, especially those serving a national Target Market.

Non-Governmental Entity

By statute, a CDFI Shall not be an agency or instrumentality of the United States, or any State or political subdivision thereof. An entity that is created by, or that receives substantial assistance from, one or more government entities may be a CDFI provided it is not controlled by such entities and maintains independent decision-making power over its activities. In the CDFI Certification application, the Applicant must respond to a series of questions designed to surface/discover issues or circumstances that may prevent an Applicant from meeting this criteria.

1. *Are the current standards for establishing that an Applicant is not owned or controlled by a governmental entity sufficient?*

The current standards for establishing that an Applicant is not owned or controlled by a governmental entity appear to be sufficient for the purposes of the Non-Governmental Entity test.



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2. *Are there additional or alternative questions and/or documentation the CDFI Fund should require to determine if an Applicant is an agency or instrumentality of a Federal, State or local government?*

Not at this time.

Certification Policy and Procedures

- A. *Should the CDFI Fund request information on the reason for applying for certification and intended use (e.g., funding requirement, marketing)?*

It is not clear to us why the CDFI Fund would seek this information and whether an Applicant would be able or willing to provide a response to this question. What might be more useful would be for the Fund to conduct a survey of CDFIs as to what they find beneficial about CDFI certification. If anonymity was preserved, respondents might be willing to respond candidly. This information might also inform the Fund's planning and resource allocation decisions.

- B. *Are there additional sources of data collected by other federal agencies that can be used to meet any of the seven certification tests? If so, please describe.*

As CDFI have become active participants in the SBA's 7(a) (both Community Advantage and to a lesser degree the full 7(a) program) data on the location, race, gender, ethnicity and former/current military status of borrowers using this program could be extremely helpful in better understanding the credit needs of these historically underserved small business owners. The comprehensive nature of the 7(a) loan application coupled with a large number of borrowers makes this a rich data source for analyzing the "non-bankable" small business credit market at a national level.

Additional CDFI Policy and Procedures Recommendations:

The CDFI Fund should create and implement a timely review process whereby the Fund responds to requests from CDFIs to modify or expand its Target Markets. The inability to respond to such requests puts CDFIs at risk of non-compliance with certification requirements and often limits their ability to compete and serve its customers. In some cases, a CDFI's inability to respond to market demand may drive borrowers to choose inappropriate or predatory loan products thus putting them in danger. Such an outcome is clearly not a desirable outcome for the CDFI Fund given its stated mission.



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General Certification Questions for Public Comment

- A. *"Community-based" is a term often used to describe CDFIs. How should "community-based" be defined and what does it mean for CDFIs to be "community-based"?*

No comment.

- B. *Although not defined in statute, the CDFI Fund allows Applicants that serve Native communities to self-designate themselves as Native CDFIs and apply for Financial Assistance and Technical Assistance through the Native CDFI Program. Applicants that self-designate as a Native CDFI must attest to providing 50 percent or more of their products and services to Native lands or Native populations. Should the CDFI Fund continue to allow Applicants to self-designate as Native CDFIs or should there be more defined standards that the CDFI Fund should verify? If so, what should they be?*

No comment.

- C. *Should CDFIs be allowed to be composed of multiple legal entities (Subsidiaries and/or Affiliates)? And if so, must a CDFI include all of its Subsidiaries and/or Affiliates for consideration?*

Yes, as the CDFI industry has matured and become more sophisticated, CDFIs' corporate structures have become more complex. For example, the April 10, 2015 Interim Rule amended the CDFI Fund certification regulations to permit a CDFI's Affiliate to rely on the Controlling CDFI's activity or track record in order to meet the financing entity requirement, solely for the purpose of the Affiliate participating as an Eligible CDFI under the CDFI Bond Guarantee Program. This is just one instance where having multiple legal entities including Affiliates or Subsidiaries helps a CDFI to access funding sources or meet other legal requirements.

- D. *Should CDFI certification standards have more "bright-line" tests, i.e. specific thresholds and benchmarks that are, where possible, quantitative in nature, or should the CDFI Fund maintain flexibility to evaluate Applicants on a case by case basis, even at the expense of certainty for applicants?*

The CDFI Fund should maintain flexibility to evaluate Applicants using qualitative measures rather than relying on 'bright-line' tests such as thresholds and benchmarks that are more quantitative in nature.

- E. *In addition to earlier questions regarding potentially different Primary Mission or Target Market standards based on institution type, are there other CDFI certification criteria standards that should vary based on institution type or the type of CDFI?*



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None that come to mind.

F. Should "start-up" entities be able to be certified? How should the term "start-up" be defined?

No comment.

G. Are there additional areas of CDFI certification policy or the CDFI certification application review process that could use improvement? If so, how?

No comment.

Conclusion

CRF recognizes this request for information represents an enormous undertaking on the part of the CDFI Fund staff. We are grateful for this effort and appreciate the opportunity to share our views and recommendations on CDFI Certification policies and procedures. The CDFI brand continues to gain greater recognition in the market. It is critical that the certification framework remain fresh and relevant so CDFIs are able to achieve their full potential to bring economic growth and opportunity to the people and places they serve. The world into which CDFIs were born more than 20 years ago has changed immeasurably and the rules that inform CDFIs must not restrict their ability to lift up those outside the economic mainstream. We believe this review of CDFI certification will only serve to help both CDFIs and the CDFI Fund fulfill their respective missions. We stand ready to assist the Fund staff in whatever way we can!

Sincerely,

Frank Altman
President and CEO



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RE: Comments on Notice and Request for Public Comment on proposed CDFI Certification Requirements and Documents

Dear Director Harris, Ms. McInnes and Mr. Bischak:

Thank you for this opportunity to comment on the Notice of Information Collection and Request for Public Comment published by the Community Development Financial Institutions (CDFI) Fund in the Federal Register on May 7, 2020. The CDFI Fund is seeking comments on its proposed and/or continuing information collection activities certifying CDFIs and assessing their on-going compliance with such requirements. Over the past several years, there has been an effort underway to update the CDFI Certification Application and associated reporting requirements. This effort culminated with the request for public comments on three key Certification documents which reflect the Fund's proposed changes to the Certification criteria: the revised CDFI Certification Application, the revised Annual Certification and Data Collection Report (ACR) and the new Certification Transaction Level Report (CTLR).

The changes being proposed by the CDFI Fund are critical to maintaining the strength and integrity of the CDFI "brand" which has become a passport for certified CDFIs to access other federal programs and to receive significant funding from both private and public philanthropic organizations. The revised Certification rule, as reflected in these three documents,



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will determine the standards entities will have to meet to become or maintain their status as a Certified CDFI going forward. It is critical that the industry participate and inform these standards and that they reflect the diversity of the CDFI industry. Community Reinvestment Fund, USA (CRF) has been actively engaged in the review effort and has provided detailed comments on many aspects of the criteria at each stage of the process. We appreciate the transparency and openness the Fund staff have shown as they reviewed the Certification framework in great detail. We have chosen to compile our comments on all three documents into a single letter for simplicity purposes and we urge the Fund to carefully consider our recommendations as well as those of our industry partners.

BACKGROUND

Community Reinvestment Fund, USA, a national Community Development Financial Institution (CDFI), is a leader in channeling resources from the capital markets to support community economic development and helping mission-driven organizations improve efficiency and build capacity. Our mission is *to empower people to improve their lives and strengthen their communities through innovative financial solutions*. For the past 32 years we have worked with community partners, investors, foundations, and financial institutions to deliver over \$3 billion in loans, investments, and bonds, resulting in the creation or preservation of 140,000 jobs, the financing of nearly 19,600 affordable housing units and funding for a wide range of community facilities. Since its inception, CRF has funded more than 4,400 small business loans, over 2,400 of which were made to businesses owned by women or people of color. CRF has deployed resources in more than 1,000 communities in 49 states and the District of Columbia and served more than 1.9 million people.

CRF was founded on a vision of improving the lives of people living and working in economically challenged communities by providing access, in partnership with local community development organizations, to public and private sector resources throughout the country. We are best known as a financial innovator with expertise in adapting financing tools that connect underserved communities to new sources of capital including establishing the first secondary market for small business and affordable housing loans to supply liquidity to development finance agencies, CDFIs and other mission-driven lenders. We pioneered the creation of securities collateralized by community development assets to offer mainstream institutional investors (banks, pension funds, and insurance companies) with a way to invest capital at scale in projects and businesses serving low-income people and revitalizing distressed communities. Since 1989, CRF has issued 19 series of Notes totaling \$284.7 million backed by community development loans. Three of our debt offerings totaling \$176 million have been rated and all of which included a senior tranche rated "AAA" by Standard & Poor's. We have also issued three multifamily affordable housing securities, including one Standard & Poor's rated issue totaling \$84.9 million, backed by 45 multifamily affordable housing loans.

Similarly, CRF played an instrumental role in shaping and launching key federal community development programs, including the New Markets Tax Credit (NMTC) and the CDFI Bond Guarantee Program (BGP). Together with its affiliate, National New Markets Tax Credit Fund, Inc., (NNMTCF), we have received \$919.5 million in tax credits of which \$869.5 million have been deployed in the form of flexible loans for both non-profit and for profit operating businesses located in low-income communities throughout the country. Since 2003, we have made 335 Qualified Low Income Community Investments (QLICs) with \$869.5 million of deployed Qualified Equity Investments (QEIs).



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In 2013, CRF was named the first Qualified Issuer (QI) for the CDFI Bond Guarantee Program. We are the only QI to issue bonds in six of the seven funding rounds conducted to date, and our total issuance since 2014 stands at \$940 million on behalf of eight CDFIs.

When faced with the dramatic contraction in bank lending during the Great Recession, CRF found a way to bring responsible credit to marginalized small businesses unable to secure conventional bank loans. We acquired one of 14 national non-depository SBA 7(a) licenses to offer this Government guaranteed loan product to support our mission of lending to small businesses located in LMI areas or owned by people of color, women and/or veterans. Since launching our SBA 7(a) lending product in 2012, CRF has made more than 511 7(a) loans totaling nearly \$276 million helping to create or retain more than 12,373 jobs. With the onset of the COVID-19 pandemic, CRF used its SBA expertise and its proprietary loan origination software to originate Paycheck Protection Program Loans for a total of \$519 million in closed loans and \$527 million in disbursed loans which preserved 51,045 jobs. We also participated in an early and novel recovery loan fund in Chicago where we originated 862 loans for nearly \$22 million which retained 2,022 jobs and created 813 jobs. CRF is a Preferred Lender under the SBA 7(a) program and has been ranked among the top SBA 7(a) lenders nationally.

General Comments: Overview of Proposed new Certification Application and Accompanying Documents

The CDFI Fund staff is to be commended for undertaking the complex task of modernizing the CDFI Certification criteria. The current framework has been in place since the Riegle Community Development and Regulatory Improvement Act of 1994 was passed and the Fund was created. It is a testament to the framers of the Riegle Act that the industry has grown from 196 certified CDFIs in 1997 to nearly 1,100 such organizations today. However, the technological changes and the evolution of the CDFI industry have made it necessary to revisit and revise key Certification requirements.

We appreciate the effort to update the Certification criteria and the current proposal has several positive aspects which we strongly endorse. In particular, the recognition and implementation of a National Target Market comprised of Investment Areas is a welcome and long overdue policy change. National CDFIs, like CRF, will now be able to make loans to worthy small business borrowers regardless of where they are located and receive credit towards the 69% threshold under the Target Market test. Policy changes to the Accountability requirements are also quite favorable by introducing more flexible and manageable ways an entity can demonstrate it is accountable to its designated Target Market(s).

The revised Certification documents do, however, raise a number of concerns and questions which should be addressed before finalizing the new criteria. First, the CDFI Fund's approach to strengthening the Primary Mission test by asking overly detailed questions about an Applicant's Financial Products and/or Services will not achieve its objective of screening out organizations that should *not* be certified. The details of the CDFI's Financial Products and/or Services should be determined by the Applicant's management and overseen by its governing board, not the CDFI Fund. The proposed approach is not a foolproof means for confirming an Applicant has a Primary Mission of community developing and it makes the Application process significantly more burdensome without assurances it will improve data quality and collection



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methods. It also places the CDFI Fund in a role of evaluating the products and/or services of Applicants which may be better left to other agencies such as the Consumer Financial Protection Bureau.

A second key concern is the CDFI Fund's decision to revoke its right to exercise discretion when an Applicant is unable to meet the 60% threshold required for the Target Market test. This is a serious and dangerous policy change that could have unintended consequences as described in greater detail in our discussion of the Sixty Percent Threshold Requirement (Target Market section). The Fund should reconsider implementing this change.

Finally, we are concerned about all the policy changes related to Low Income Targeted Population Target Markets referenced in the revised Certification documents that are still under development. Specifically, under the new criteria the CDFI Fund will require Applicants and CDFIs to use only "approved" Target Market Verification Processes to confirm that at least 60% of their financing activities are being directed to their designated Target Market(s). However the Fund has yet to publish a list of "approved" processes, nor has it established a process for Applicants to seek approval for Target Market Verification Processes that they have developed themselves. For instance, many CDFIs serving a Low Income Targeted Population look to the "end beneficiaries" to qualify the loans they are making to their Target Market(s). This long standing approach needs to be included in the Fund's list of "approved" Target Market Verification Processes so that CDFIs can continue to finance vital housing, community facilities and small business borrowers across the country. Lastly, while the Fund has introduced an alternative method for qualifying loans to a LITP Target Market known as the Census Block Group geocoder, this new CDFI Information Mapping System tool has not been created and therefore cannot be tested. It is impossible for CDFIs and industry stakeholders to fully understand and comment on the revised Certification documents until *all* the outstanding components of the new criteria have been completed and reviewed.

We respectfully recommend that the CDFI Fund review all comments carefully and engage in a collaborative dialogue with the industry and all interested stakeholders to address all the unfinished aspects of the proposed Certification criteria. We strongly advise against publishing a final rule on this important policy at this time.

REVISED CDFI CERTIFICATION APPLICATION

Section by Section Review and Detailed Comments:

Applicant Basic Information

Overview

Under the current CDFI Certification Application, the Basic Information (BI) section collects general information about the Applicant (and for a regulated financial institution, its Affiliates¹) that must be provided for the CDFI Fund to evaluate

¹ Affiliate: a company or entity that Controls, is Controlled by, or operates under common Control with another company.

<https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 3, accessed 10/07/20.



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whether an Applicant meets the requirements for CDFI Certification. The CDFI Fund is proposing to require that non-regulated entities (e.g. nonprofit loan funds) be subject to the same requirement and include Affiliate information in the BI section. (See discussion below.)

Questions Related to Basic Information

Question #6. What is a reasonable grace period for currently certified CDFIs to come into compliance with the new certification criteria?

The CDFI Fund should allow existing CDFIs up to three (3) years to comply with the new certification requirements. This process could require some CDFIs to change their business models, their governing and/or advisory board structures, methods of verifying loans directed to approved Target Markets, as well as potentially selling or allowing loans or lines of business to be sold, run off, or otherwise discontinued in order to meet the new certification criteria.

Question #7. Currently applicants are allowed to submit CDFI Certification Applications at any time throughout the year. The CDFI Fund is considering transitioning to a quarterly submission schedule, which would allow applicants to submit CDFI Certification Applications only within a specific time period every three months. Should the CDFI Fund transition to a quarterly CDFI Certification Application cycle?

The CDFI Fund should maintain a rolling Certification Application process as a quarterly Application cycle could lead to long delays and significant backlogs of pending applications. This could make it difficult for entities to become certified in a timely fashion and provide Financial Products and Financial Services to borrowers in their approved Target Markets. The current COVID-19 crisis is an example of how an Applicant seeking to become a CDFI might be forced to wait three months to file their application and receive a designation which, in turn, could directly enhance the organization's ability to raise and deploy funds in its defined Target Markets as rapidly as possible.

Specific Application Questions/Topics

Affiliates

As noted above, the key change to the Basic Information section² is to place Depository Institution Holding Companies (DHICs) and (Nonprofit) Loan Funds on equal footing with regard to the treatment of Affiliates. Thus, if the CDFI Certification Applicant is **not** a DIHC, an Affiliate of a DIHC, or a Subsidiary of an Insured Depository Institution (IDI), in addition to presenting Affiliates relevant to any special CDFI Certification provision or exception, it must identify any Affiliate in its family of entities that meets any of the following criteria for consideration in connection with the Primary Mission requirements:

² <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, page 18, accessed 10/07/20.



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1. The Affiliate Controls³ the Applicant, except if the Controlling entity is a Tribal Government;
2. The Affiliate directly engages in Financial Product and/or Financial Services activity and the Applicant and the Affiliate are under the mutual Control of another entity; or
3. The Affiliate directly engages in Financial Product and/or Financial Services activity and the Applicant Controls the Affiliate.

Comment

We wish to offer some general comments on Affiliates pertaining to the Basic Information section of the revised Certification Application. Generally speaking, many CDFIs use off-balance sheet special purpose entities (SPEs) or vehicles which do not have any employees and whose role is primarily to hold assets. These SPEs are sometimes referred to as “brain dead” in that they exist for legal reasons but are not fully functional affiliates. We assume the CDFI Fund is not expecting Applicants to include each of these vehicles in the Application as they are simply financing structures without day-to-day operations. CDFIs may appoint the board of such entities, however investors tend to retain control and therefore these entities should not be captured in the BI section. CRF has a number of these off-balance sheet entities associated with its New Markets Tax Credit (NMTC) Program. Since the activities of these NMTC entities have never been included the 60% threshold required under the Target Market test, we assume they would not be listed as Affiliates for the purposes of CDFI Certification.

There are also instances where a CDFI or Applicant may have an entity which it controls but which was established in order to allow the organization to access a license to participate in another federal program. In this case, the affiliate or subsidiary is wholly owned by the CDFI with whom it contracts to provide staff, as well as other resources to carry out its activities. We believe these types of entities should not be reflected in the BI section as well since they were created to meet programmatic requirements but, for all intents and purposes, are one in the same with the parent CDFI or Applicant.

Primary Mission

Overview

In the past, it has been difficult to articulate and apply the Primary Mission test through a specific set of standards or criteria. The Fund proposes requiring CDFI Certification Applicants to attest to and provide additional information to determine their dedication to a series of community development principles including:

- Documenting a community development mission for a 12 month period prior to applying for certification;

³ Ibid, pg. 3. “Control, Controlled or Controlling: (1) Ownership, control, or power to vote 25% or more of the outstanding shares of any class of voting securities of any company, directly or indirectly or acting through one or more other persons; (2) Control in any manner over the election of a majority of the directors, trustees, general partners or individuals exercising similar functions of any company; or (3) Power to exercise, directly or indirectly, a controlling influence over the management, credit, or investment decisions or policies of any company.”



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- Alignment between its community development strategy and its Financial Products and/or Financial Services provided to distressed communities and/or underserved populations;
- Demonstrating responsible financing practices that do not harm consumers as evidenced by affordable and transparent products or services, fair collections practices and compliance with federal, state and local laws and regulations;
- Affiliates that offer Financial Products and Financial Services must provide evidence of a primary mission of community development (except if the parent or Affiliate is a tribal government) as has been required of DIHCs, affiliates of DIHCs and Subsidiaries of IDIs.

While this approach provides a more robust set of criteria for verifying an Applicant meets this test, there are potential drawbacks of relying so heavily on its Financial Products and/or Financial Services to confirm a Primary Mission of community development. Placing an affirmative obligation on the Applicant to show its products and/or services do not harm consumers could unintentionally limit the flexibility for entities to offer Financial Products or Services that strike the appropriate balance between the needs of their borrowers and their own financial viability based on the credit risks they assume. We recognize this is delicate balance but several of the questions, especially Q. PM12 & Q. PM13, suggest the CDFI Fund is applying a "litmus test based on a laundry list" of terms and conditions to assess whether an entity has Primary Mission of community development based on its products and services. If the objective is to screen out organizations that offer predatory credit products, we are not convinced this approach will keep these organizations from being certified. Applicants do have the opportunity to explain why their Financial Products may exceed certain restrictions (such as interest rate ceilings) but it is unclear what criteria the CDFI Fund will apply to include or exclude such products.

It is also unclear whether the Fund can use its discretion to consider qualitative factors beyond the terms of an Applicant's Financial Products or Financial Services. The Fund should have the ability to look beyond the Application to review an Applicant's website, its messaging and any social media campaigns to see how the entity's online presence aligns with its stated mission of promoting community development. We also see benefit in continuing to request that Applicants provide a narrative describing their history and how they carry out their mission through their financing activities.

The changes proposed to the Primary Mission test warrant further investigation by the CDFI Fund by soliciting additional, in-depth industry input, holding stakeholder interviews and conducting surveys to ensure the revised Application only confers certification on entities that embody and preserve the CDFI "brand".

Questions Related to Primary Mission

Question #8. Are the questions in the revised application appropriate to determine an entity's community development intent?

In an effort to protect and preserve the integrity of the CDFI Certification "brand," the Fund has taken an approach to assessing or evaluating an entity's community development intent that we believe is flawed. The objective, which we wholeheartedly support, is to ensure that "bad actors" such as predatory lenders offering abusive loan products are not certified as CDFIs. However, while the Fund's intent is commendable, the approach of examining every aspect of an



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Applicant's Financial Products or Services through a detailed list of drop down boxes will not achieve the stated goal. In our view, the Fund is asking for too much detail about an Applicant's products and services in this section and appears to be "micromanaging" CDFI financing activities. This approach could have the unintended effect of driving CDFIs to offer "plain vanilla" products and services to avoid burdensome scrutiny while stifling innovation.

Recommendation: The nature and terms of an Applicant's/CDFI's Financial Products and Financial Services should be determined by the organization's leadership and governing board. It should not be the purview of the CDFI Fund to set the terms of such products and services.

Question #12. Are there any other practices related to the responsible provision of Financial Products, especially those related to mortgage or other real estate lending, and to equity investments, for which either the presence or absence of which should be considered for purposes of CDFI Certification?

CRF conceived of and helped to launch an innovative single family mortgage product and supporting rehabilitation fund in the City of Detroit in which banks received regulatory approval to offer home mortgages with higher than normal loan-to-value (LTV) ratios in order to restart conventional mortgage lending in this market. We offer this initiative an example of a responsible lending product with nontraditional terms designed to meet a specific need in the mortgage market at a particular time. Mission-driven lenders often innovate and create products to address a need in the local market. The terms of such products should be carefully considered and should not preclude an entity from being certified simply because the terms are outside the norm.

We have serious concerns about the CDFI Fund's approach to evaluating Applicants' Primary Mission. The Fund should not attempt to regulate CDFIs' products as there are other agencies, such as the Consumer Financial Protections Bureau charged with this responsibility. However, should the Fund decide to collect information about CDFIs' financial products, we would encourage you to inquire about abusive practices related to small business loan products – especially given the exponential growth of online lending platforms many of which offer predatory products. This question should include suspicious or deceptive practices related to small business loans not just those pertaining to consumer products and equity investing. Loans carrying excessive interest rates with hidden fees, a speedy application process requiring no credit check, often encouraging repeated refinancing and rollovers, and where the cost of loan is not clearly stated, or where products may be disguised as savings or credit repair loans are examples of the types of products that raise serious concerns. Merchant cash advances (which are technically not loans) and loans targeted to borrowers with low or no-credit scores or history should also be captured in this question.

Question #13. For purposes of CDFI Certification, should an entity be required to indicate that it offers or engages in at least one or more of the types of Financial Services and practices identified in the questions on "Responsible Financing Practices – Financial Services"?



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This question is confusing as it is not clear *how* such a requirement would apply to non-depository Applicants that do not offer and do not have the capacity to offer Financial Services⁴ to meet CDFI Certification requirements? Would an applicant financing multifamily housing be required to offer checking or savings accounts? Moreover, unregulated Applicants (those that are not banks, bank holding companies, or credit unions) are not permitted to offer Financial Services which only compounds the confusion surrounding this question. The CDFI Fund should provide additional clarification regarding this question.

Question #15. Are there circumstances that the CDFI Fund should consider as an exception to the rule related to the treatment of Affiliates under the Primary Mission requirement?

Under the current framework, Subsidiaries of Insured Depository Institutions (IDIs), Depository Institution Holding Companies (DIHCs), and Affiliates or Subsidiaries of DIHCs are required by statute to meet the certification test collectively. To avoid disparate treatment among financial services providers, the CDFI Fund is proposing to apply the primary mission test, regardless of entity type, to all parent entities and to any Subsidiary or Affiliate *that engages in financing activities (emphasis added)*.

The Fund is proposing to require that an Applicant and any relevant Affiliate must be able to demonstrate an acceptable Primary Mission of community development in place for at least the full 12 months completed just prior to the submission of the application.⁵ This new policy may inadvertently pose a problem for established CDFIs in the following scenario. If a CDFI were seeking to recertify while at the same time considering an investment in a newly established affiliate, the start-up entity would be deemed an Affiliate under the proposed certification guidelines. Often a start-up affiliate raises capital before making loans or investments and thus, such an entity would not meet the proposed Primary Mission test even though the existing CDFI would have had a Primary Mission in place for the 12 months prior to submitting its recertification application. We don't believe the CDFI Fund intends to preclude these types of investments by Applicants or CDFIs seeking to become certified or recertified and should clarify its position.

Recommendation: The CDFI Fund should clarify that Applicants or CDFIs seeking to be certified may make investments into newly established Affiliates that have a Primary Mission of community development but which, as start-ups, have not had this mission in place for at least 12 months prior to the submission of their application.

⁴ See the definition of Financial Services and how such Services are considered by the CDFI Fund for Certification purposes at <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 3, accessed 10/07/20.

⁵ Ibid, pg. 30.



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Specific Topics / Application Questions

Responsible Financing Practices – Military Annual Percentage Rate (MAPR)

CRF strongly supports policies that encourage responsible financing practices, however, the mandated use of the Military Annual Percentage Rate (MAPR)⁶ method to calculate the Annual Percentage Rate for Certification purposes, regardless of the type of borrower or credit product, raises several questions and recommendations the Fund should consider and address. In particular:

1. Were other methodologies to calculate the Annual Percentage Rate considered and if so, which ones and why were they not selected?
2. As noted in the Updated Frequently Asked Questions, the MAPR is required by statute for certain types of consumer credit extended to active duty service members and their family members.⁷ It appears this methodology was designed for consumer loan products. Nevertheless, the revised CDFI Certification Application states that the MAPR is being implemented “**regardless of borrower status**”(emphasis added).⁸

Does the Fund intend to apply this methodology to small business loans, commercial real estate loans, consumer loans (such as mortgages and auto loans), etc.? If so, we strongly suggest that the CDFI industry be provided more time to assess this methodology and test it to make sure it works for all types of loans. For instance, as a national SBA 7(a) lender, CRF would like to know what the implications would be of using the MAPR for this government guaranteed loan product? This policy change may also require adjusting various technology and reporting software tools used to originate, monitor and service 7(a) as well as other types of loans CDFIs offer. Did the CDFI Fund consult with the SBA to understand how the MAPR could be applied to the Agency’s loan products used by CDFIs?

We are also concerned that using the MAPR to calculate the APR might actually increase confusion among small business borrowers, especially those working with both banks and CDFIs on a loan request. If CDFIs are required to use the MAPR calculation method but a bank is not, then the borrower would be comparing two rates that are calculated differently. Borrowers unfamiliar with the MAPR would need information as to how the APR is calculated under this method. Imposing

⁶ See 32 CFR § 232.4 of the Military Lending Act. Additional information may be found at the Consumer Financial Protection Bureau’s Military Lending Act (MLA), Interagency Examination Procedures – 2015 Amendments, Terms of Consumer Credit Extended to Covered Borrowers (Calculation of MAPR), pg. 6-9.

⁷ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Public%20Comment%20FAQ%2009242020.pdf> Proposed CDFI Certification Application, ACR & CTLR – Request for Public Comment, Frequently Asked Questions Updated October 2020, Q. 7, pg.6, accessed 10/08/20.

⁸ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 30, accessed 10/07/20.



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universal adoption of the MAPR method creates additional complexity and burden for both CDFIs and their small business customers without providing offsetting benefits.

Recommendation: The CDFI Fund should seek further comment on the MAPR, giving CDFIs an opportunity to familiarize themselves and test this methodology on their loan products to determine if requiring this standard across the board would improve transparency and comparability without adding significant compliance burden. The Fund should also consider how this policy will affect CDFIs' lending activities when they are part of a larger transaction with other types of lenders, such as banks and credit unions, who are not required to use this APR calculation method.

Question PM09 What are the Applicant's community development objective(s)?

In reviewing the drop down options available, another option specifically designed for CDFIs engaged in small businesses (not micro) lending should be included to capture the outputs or objectives of this activity which include, but are not limited to, creating jobs for local residents, building wealth, delivering essential goods and services, and strengthening the social fabric of the community. Options such as *promoting financial access*, *economic development*, or *community revitalization* don't fully reflect the benefits of a robust, vibrant small business ecosystem in economically distressed communities.

Recommendation: We recommend adding the following drop-down option to the current list in the proposed Certification Application - "**Promote access to capital and credit for underserved small businesses**". We believe this option would apply to a substantial segment of the CDFI industry focused on small business (but not microenterprise) lending.

Question PM11 For each community development objective selected in question PM10, identify the type of output or outcome supported by the Financial Product(s) in which the Applicant engages.

Question #1 in the Notice of Information Collection and Request for Public Comment asks commenters, "Is the information that will be collected by the revised application necessary and appropriate for the CDFI Fund to consider for the purposes of CDFI Certification?" Question PM11 is seeking to collect information on outputs and outcomes. In our opinion, such information is better suited to impact data collection efforts or activities rather than the CDFI Certification process. If the entity seeking to be certified is a relatively new organization it may be difficult to predict or identify what outcomes (even in the short or medium term) will be supported by the Financial Products the Applicant intends to offer even if it can identify likely outputs. Moreover, what if the Applicant's outputs and/or outcomes change over time? Is there a plan to update and collect these data points on an on-going basis? If so, please describe this plan.

Recommendation: If the CDFI Fund intends to collect impact data, such as outputs and outcomes, they should do so through the Transaction Level Report (TLR), the proposed Certification Transaction Level Report (CTLR), or an impact reporting document rather than through the Certification Application as impact is not one of the criteria for becoming a certified CDFI. The Certification Application should not serve as a "backdoor" for the Fund to gather impact information.



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Question PM12 For each output selected in question PM11, what Financial Product terms, conditions, or practices does the Applicant employ to promote positive community development results for underserved population(s) and/or residents of economically distressed communities?

Question PM12 seems to draw a one-to-one correlation between the terms of Financial Products and positive community development impact. The multiple choice nature of this question oversimplifies how CDFIs use a customized set of products, services, expertise, partnerships, etc., to improve opportunities for underserved populations and/or economically distressed communities. CDFIs conduct their financing activities in a nuanced way rather than using a “cookie-cutter” approach as suggested by the structure of this question. They are intentional and creative in addressing the credit and capital needs of their borrowers taking both quantitative and qualitative factors into consideration. Often, CDFIs improvise and adapt their products to fit the needs of a particular customer or set of circumstances. Thus it may be difficult to match the options in the drop list to specific positive community development results. We also observed that the list of drop down options included in this question bear a strong resemblance to the list used in Question #14 in the Business Strategy Section of the New Markets Tax Credit Allocation Application.

We are also concerned that the Fund appears to associate CDFI Financial Products with characteristics such as below-market pricing, reduced fees and/or more flexible loan terms. There are many CDFI products which offer borrowers *access to capital or credit* without any subsidy. These borrowers may be unable to secure a loan or investment from a mainstream financial institution and simply having access to credit is what defines or differentiates a CDFI’s Financial Product(s). CDFI lenders, like CRF, offering government guaranteed credit products, must adhere to the terms dictated by the loan program and therefore have limited leeway to modify such terms. Products, like the SBA 7(a), are designed for small businesses unable to obtain conventional credit and borrowers must demonstrate they are unable to obtain credit elsewhere as part of the loan application process.

If CDFIs offer concessionary terms on their loan products they may not be properly pricing the risks they are assuming, which could compromise their financial sustainability. Over the years, the CDFI Fund has set expectations and industry benchmarks for financial ratios (e.g. Net Assets ratio) and would appear to be working at cross purposes if it were to require below-market rate pricing or concessionary terms on CDFI loan products. Subsidy is only one tool in the CDFI toolbox to make their Financial Products accessible and appropriate for underserved borrowers and those located in low- and moderate-income communities. Drawing a one-to-one correspondence between each output a CDFI selects and the terms of one or more of its Financial Products without the context of a particular transaction does not tell the full story of how CDFIs take a flexible approach to adjusting terms of their capital and credit products to fit the needs of a borrower.

Finally, it is not clear how the Fund will keep up with new innovations in product terms that CDFIs may offer either prior to or after being certified. Will the current list of drop down options be regularly reviewed and updated?

Recommendation: We ask the CDFI Fund to re-examine its approach to this question and determine if requesting a narrative in place of the current list of drop down options would be a better approach. The Fund should also consider the



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questions we raised above and, **at the very least, we recommend that an option such as “Unable to access credit elsewhere” be added to the list of drop down options in Question PM09.**

Question PM13 For each Financial Product term, condition, or practice selected in question PM12, explain how positive community development results for underserved population(s) and/or residents of economically distressed communities are supported?

As discussed in question PM12, there is not a one-to-one correlation between the terms, conditions, or practices reflected in a CDFI's Financial Product(s) and its community development results. Like the previous question, this question fails to account for qualitative factors and assumes a causal relationship between the terms, conditions, or practices of a CDFI's Financial Product(s) and the community development outcomes it achieves. The Fund's approach to both PM12 and PM13 appears to be flawed as it rests on the assumption that primary mission can be accurately assessed through a granular examination of the characteristics of an Applicant's Financial Products and that these Products generally offer some form of subsidy rather than providing access to credit that the borrower would not otherwise be able to secure.

Recommendation: The Fund needs to re-examine its approach to assessing an Applicant's Primary Mission through a detailed review of its Financial Products. We suggest considering alternative methods for evaluating Primary Mission which would include an analysis of an Applicant's Financial Product(s) as well as a careful review of its web presence, marketing materials, social media campaigns and any other pertinent information. We also see value in combining these two questions into a single narrative describing an entity's mission, its theory of change, and how its products and financing activities, advance positive community development in the markets or populations it serves. This would present a more complete picture than simply selecting a predetermined series of drop down options. It should be noted, the process outlined in question PM13 must be repeated for each Financial Product output selected. Some Applicants may find this process so laborious they simply choose fewer outputs to shorten the process and reduce the amount of information they must provide. The Fund should explore ways to obtain the information needed without placing undue burden on Applicants.

Question PM19 As of at least 12 months completed just prior to submission of the CDFI Certification Application, for each of the Applicant's loan products, does the Applicant disclose the periodic payment due, the total amount to be repaid over the life of the loan, the total finance charges over the life of the loan, the annual percentage rate (APR) – or for open-ended loans, the effective APR – of the loan?

We are confused as whether this question applies to small business loans or is intended to encourage transparency and disclosure for consumer loan products? Disclosing the Annual Percentage Rate (APR) and the total amount to be repaid by the borrower over the life of the loan may not be meaningful or tell the whole story if applied to some types of small business loans like the 7(a) product which carries a variable rate prescribed by the SBA as a spread above the Prime Rate. As the Prime Rate fluctuates it can be difficult to calculate the APR and to provide the borrower with a total amount to be repaid over the life of the loan. In addition, the APR includes not only the interest rate a borrower will pay but also the



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fees and other transactions costs associated with a loan. The 7(a) loan product has a few such fees (e.g. a guarantee fee, packaging fee, etc.) and they are disclosed separately and not built into the APR.

Recommendation: CRF appreciates the CDFI Fund's objective of requiring lenders to fully disclose the terms of their loans to borrowers so they can make informed decisions about taking on credit obligations. However, we encourage the Fund to review whether this question should apply to all small business loans products, such as the SBA 7(a) and other government-related small business loan products. Applying the same disclosure requirements to small business and consumer loans without careful consideration of whether such an approach is meaningful for business loans, may result in inappropriate requirements for certain types of loans that provide little or no benefit for the customer.

Question PM20 Has the Applicant had programs for each of its loan products (including credit cards) to waive fees or interest, reduce interest rates, forgive principal or otherwise modify loans to assist struggling borrowers for at least the 12 full months completed just prior to the submission of the CDFI Application?

Question PM20 assumes CDFIs have the ability to waive fees or reduce interest payments, forgive or otherwise modify loans to assist struggling borrowers. As a full SBA 7(a) lender, CRF is prohibited by the program from offering fee, interest waivers, or forgiveness on 7(a) loans (excluding Paycheck Protection Program Loans). This question does not account for program requirements over which Applicants have no control and must abide by if they wish to offer these government (guaranteed) loan products. We are also confused by the reference to loan forgiveness in this question as the Fund clearly defines Financial Products as *excluding* "forgivable loans unless they have been pre-approved".⁹

Recommendation: We request that the CDFI Fund clarify how this question would apply to CDFIs or Applicants using government loan programs, such as the SBA 7(a), that may preclude them from offering the concessionary terms described in PM20. Furthermore, it would be helpful for the Fund to reconcile its definition of a Financial Product (which excludes forgivable loans) with its references to forgiveness as a possible form of loan modification.

Financing Entity

Overview

The revised Certification Application reminds us that a Certified CDFI must be an entity whose predominant activity is the provision, in arms-length transactions, of Financial Products and/or Financial Services, and that it has been engaged in such activity for at least 12 months. Unless otherwise indicated, the provision of Financial Products must be arm's-length and on balance sheet.

When determining the "**Assets Dedicated to the Direct Provision of Financial Products and /or Financial Services**" the revised Certification Application notes that "***unless otherwise directed, the asset information provided in the***

⁹Ibid, pg. 2.



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Financing Entity section of the application should be based on the Applicant's information only. Do not use a consolidated statement.¹⁰ (emphasis added)

Specific Topics / Application Questions

Question FE-AO7 Instructs the Applicant to attach its non-consolidated, current fiscal year-to-date financial statements.

Under Generally Accepted Accounting Principles (GAAP) accounting rules, many CDFIs are required to prepare consolidated financial statements. The CDFI Fund should align its Certification requirements for the Financing Entity test with GAAP rather than mandating that Applicants prepare non-consolidated fiscal year-to-date financial statements which would only impose additional reporting burdens on entities.

Target Market

Overview

To be a Certified CDFI, an entity must demonstrate that it serves at least one eligible Target Market (either an Investment Area or Targeted Population). In addition, it must direct at least 60% of both the number and dollar volume of arm's-length, on-balance sheet Financial Products to one or more eligible Target Markets. Under current guidance, if an Applicant fails to meet the 60% threshold, an exception may be provided based on a justification that is satisfactory to the CDFI Fund.

Under the proposed certification framework, all new CDFI Applicants must meet the applicable Target Market percentage benchmarks over the 12 full months completed just prior to submission of the application. To maintain the certification status, Certified CDFIs are required to demonstrate compliance with the Target Market percentage benchmarks based on a three-year average through the last day of their most recently completed fiscal year.¹¹ To confirm activity to the Target Market(s), transaction level data will be submitted annually through the CTLR for those CDFIs that do not submit a TLR.

Finally, new CDFI Certification Applicants must meet the relevant Financial Product activity percentage threshold, without exception, in both the number and dollar amount of such activity—the CDFI Fund will discontinue its current practice of providing exceptions to the Target Market threshold requirement.¹² An entity may continue to serve a combination of eligible Target Market types, for the purposes of calculating the overall Target Market percentage of an entity's activity,

¹⁰bid, pg. 45.

¹¹ Certified CDFIs with less than three years of CDFI Certification will be measured based upon the full history of their financing activity, up to three full fiscal years but not earlier than through the 12 months prior to the submission of their application. CDFI Certification Application for public comment, pg. 53, <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf> accessed on 10/12/20.

¹²<https://www.cdfifund.gov/Documents/FY%2020%20CDFI%20Certification%20Quick%20Facts%2005052020%200508%20compliant%20FINA%20L.pdf>, Proposed CDFI Certification Application, Request for Public Comment, Revision Quick Reference, Community Development Financial Institutions Fund, U.S. Department of Treasury, May 2020, pg. 8, accessed 10/13/20.



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each Financial Product transaction or Financial Service item may be counted towards only one Target Market type (even if the transaction or account qualifies as having been directed to more than one Target Market). If an Applicant falls below the required level for any of the applicable Target Market percentage benchmarks, **it will not be eligible for CDFI Certification.** (emphasis added)¹³

Investment Areas

Under the new certification policy, entities serving an Investment Area consisting solely of individual qualified census tracts as their Target Market will be able to count *all* activity in qualified census tracts toward their Target Market requirements. Similarly, entities that serve certain Targeted Populations will be able to count all qualifying activity toward their Target Market requirements, regardless of location. This is a departure from current policy which requires entities to identify the specific geographic area(s) within which they propose to serve an Investment Area(s) and/or Targeted Population(s) as their Target Market. Only transactions within the identified geographic area(s) are eligible to count toward the 60% level of financing activity that must be directed to their approved Target Market(s).¹⁴ By removing the geographic boundaries on most Target Market designations and measuring all of an entity's eligible activity to its designated Target Market type(s) (i.e., Investment Areas and/or Targeted Populations) toward the 60% threshold, a CDFI will be able to serve its designated Target Market type(s) at whatever level it is capable, including nationally and or through the use of financial technology, without having to seek additional approval.¹⁵

Targeted Population

A Targeted Population is defined as individuals, or an identifiable group of individuals who are low-income or lack adequate access to Financial Products or Financial Services. The Targeted Population is specific to the individual borrowers whose socio-economic characteristics are used to determine inclusion in the Target Market.¹⁶ Targeted Populations that are not already approved by the CDFI Fund, in the future these Target Markets must be submitted for

¹³ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 53, accessed 10/13/20.

¹⁴ <https://www.cdfifund.gov/Documents/2020-09747-Certification%20Application.pdf>, Federal Register / Vol. 85, No. 89 / Thursday, May 7, 2020, pgs. 27277 – 27278, accessed 10/13/20.

¹⁵ <https://www.cdfifund.gov/Documents/2020-09747-Certification%20Application.pdf>, Federal Register, May 7, 2020, Vol. 85, No. 89, pg. 27278, accessed on 10/07/20.

¹⁶ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 55, accessed 10/13/20.



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approval prior to being proposed in a CDFI Certification Application.¹⁷ The Applicant must use the CDFI Fund's approved verification processes to demonstrate that it is serving the Targeted Population.¹⁸

Target Market Verification Processes

A Target Market verification process or combination of such processes will be used to verify whether the appropriate percentage of an Applicant's Financial Products and/or Financial Services are being deployed to their designated Target Market(s). Only those Target Market verification processes approved by the CDFI Fund may be used when compiling Target Market data.¹⁹

Applicants may request approval of a Target Market verification process(es) not already accepted by the CDFI Fund to compile Target Market data for the CDFI Certification Application, however, the new process(es) must be approved by the CDFI Fund prior to submission of the application. Approved CDFI Fund Target Market Verification Processes must be used exactly as approved unless and until modification of the process is authorized by the CDFI Fund.²⁰

Specific Topics / Application Questions

Sixty Percent Threshold Requirement

The revised CDFI Certification Application – Revision Quick Reference document states that Applicants seeking to become CDFIs will be required to direct the prescribed percentage of their lending and/or investing activity to the Target Market Types for which they are certified both in terms of the number and dollar amount of such activity. This requirement will be applied without exception meaning the CDFI Fund will no longer provide exceptions on a discretionary basis to the Target Market threshold requirement.²¹ It is important to emphasize that neither the statute nor the regulations states what

¹⁷<https://www.cdfifund.gov/Documents/FY%2020%20CDFI%20Certification%20Quick%20Facts%2005052020%200508%20compliant%20FINA%20L.pdf>, Proposed CDFI Certification Application, Request for Public Comment, Revision Quick Reference, Community Development Financial Institutions Fund, U.S. Department of Treasury, May 2020, pg. 8, accessed 10/13/20.

¹⁸ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 55, accessed 10/13/20.

¹⁹ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 57, accessed 10/13/20.

²⁰ Ibid.

²¹<https://www.cdfifund.gov/Documents/FY%2020%20CDFI%20Certification%20Quick%20Facts%2005052020%200508%20compliant%20FINA%20L.pdf>, Proposed CDFI Certification Application, Request for Public Comment, Revision Quick Reference, Community Development Financial Institutions Fund, U.S. Department of Treasury, May 2020, pg. 8, accessed 10/13/20.



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percentage of a CDFI's activities must be devoted to its Target Market(s).²² However, the Fund's guidance for completing a certification application requires that at least 60% of a CDFI's "Financial Product" activities must be in qualified Target Markets (Investment Areas, Low Income Targeted Populations or Other Targeted Populations).²³

This proposed change poses risks for both the CDFI Fund as well as Applicants and existing CDFIs. It is not clear why the Fund decided to rescind its ability to provide exceptions to the Target Market threshold requirement. Such discretion is crucial to maintaining flexibility to consider the specific circumstances of a particular Applicant's lending and/or investing activities. Implementing an inflexible rule could result in an Applicant being denied certification (or an existing CDFI being decertified even using a three-year average) often because of mathematical anomalies rather than a failure by the entity to direct its financing activities to its approved Target Markets. For example, when an entity makes loans of very different sizes and in differing quantities, it may fail to meet the 60% threshold for **either the number of units or the dollar amount**. For example, let's assume an entity originates five loans in a given year. Three of the five loans (60% of the units) are made to its approved Target Markets however, two of the loans are for \$500,000 each and one loan is for \$1 million. In this case, the dollar value of the eligible loans is only \$2 million or 40% of the total value of the loans originated. A similar situation could arise if an entity makes a small number of large facilities or affordable housing loans while also originating a larger volume of small business loans. For instance, if a CDFI originates 100 loans in a year of which five loans of \$2 million each and 55 loans of \$1,000 each are made in its approved Target Markets. The remaining 45 loans for \$35,000 each are *not* in its eligible Target Markets. In this scenario, only 55% of the units are directed to approved Target Markets but 86% of the dollar value of the loans originated are serving its approved Target Markets. Situations like these occur frequently and therefore it is critical that the CDFI Fund preserve its discretion with regard to the 60% threshold for the Target Market test. In addition, national emergencies, such as the current COVID-19 pandemic and economic crises, like the Great Recession, offer compelling examples of circumstances where the CDFI Fund may wish to retain discretion as it relates to the 60% test.

Recommendation: The CDFI Fund *should* maintain its discretion related to the 60% threshold for the Target Market test.

National Investment Area / Targeted Population Target Markets

The single most important and positive change to the CDFI Certification policies is the removal of geographic boundaries on most types of Target Markets, including those comprised of Investment Areas and some Targeted Populations. This change is particularly noteworthy for two reasons: (1) it recognizes the changing nature of delivering Financial Products and/or Financial Services in all communities across the country, including low- and moderate-income areas; and (2) it no longer discourages CDFIs from providing loans in eligible census tracts or to eligible populations outside of the geographic areas specified for their approved Target Market(s). Under current policy, transactions outside of a CDFI's approved

²² Memorandum to Annie Donovan, Director of the CDFI Fund from the CDFI Coalition re: Modernizing the CDFI Certification Process, May 6, 2016.

²³ CDFI Fund Supplemental Guidance and Tips (February 2014) p. 20.



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Target Market(s) cannot be counted towards the 60% threshold of their financing they are required to direct to their approved Target Market(s), even if the loan is made in a qualified census tract or to a qualified member of a Targeted Population. These qualified loans actually counted against a CDFI seeking to meet the Target Market test reducing the amount of credit available to eligible borrowers. As the geographical and technological reach of CDFIs has expanded, this policy has become a barrier to advancing the CDFI Fund's goals and its mission. CRF has long argued for a National Investment Area Target Market and applauds this decision by the Fund to allow CDFIs to address the credit needs of small businesses anywhere in the country with safe, appropriate credit products. This policy change comes at a critical time for our economy and for small businesses struggling to recover from the coronavirus pandemic. It will also encourage CDFIs to embrace and adopt new financial technology which is critical to the success of the industry reaching and effectively supporting small business owners, nonprofits and other community-based organizations in the recovery phase of this public health crisis. We commend the Fund staff for taking this important step in modernizing the CDFI Certification criteria.

With the advent of a National Investment Area Target Market, we request the CDFI Fund implement the following policy changes:

1. Automatically grant CDFIs a blanket National Investment Area (IA) Target Market (assuming they can meet the Accountability requirements) so that they can address the critical need for credit in the COVID-19 crisis
2. Consider adopting the Accountability model applied to the certification of Community Development Entities (CDEs) in the New Markets Tax Credit Program for CDFIs that wish to have a National IA Target Market. To be a certified CDE, 20 percent of the governing or advisory board members must be accountable and can be accountable to larger geographic areas.²⁴ For CDE certification, a governing or advisory board member can be "an employee or board member of a non-affiliated community-based or charitable organization that provides more than 50 percent of its activities or services to Low-Income Persons and/or LICs [Low-income Communities]."²⁵ Utilizing the CDE Accountability requirements for CDFIs with a National IA Target Market will

²⁴ In the Fund's CDE Certification Question and Answer guidance, the Fund directly addresses having board members accountable to large regions or nationwide: "**26) How do I demonstrate accountability to LICs in my service area if I am serving a large geographic area (e.g., a state, a multi-state region or the entire nation)?** The Fund advises entities that serve a large geographic area should appoint at least one person that is accountable to LICs throughout the service area to its board or advisory board. For example, an organization serving the entire nation should appoint to its board a staff person or a board member from a nationwide community development organization primarily serving LICs. An organization without at least one person on its governing board or advisory board(s) that can reasonably be deemed to be representative of LICs throughout the organization's service area may still be certified as a CDE, provided that the Fund determines that at least 20% of its governing board or advisory board(s) is representative of a cross-section (e.g., urban and rural) of LICs in its service area. Determinations regarding what constitutes a cross-section of a particular service area will be made on a case-by-case basis by the Fund. Organizations, particularly those serving multi-state geographies, may wish to establish multiple advisory boards in order to meet this requirement."

²⁵ CDE Certification Board Table pdf, available on the CDFI Fund's websites at <https://www.cdfifund.gov/programs-training/certification/cde/Pages/default.aspx>, accessed 10/31/20.



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better align the CDFI and CDE Certification rules, simplifying reporting and regulatory requirements for Applicants participating in both programs.

Target Market Verification Processes

The revised Certification Application states that Applicants *must* use an approved Target Market verification process or a combination of approved processes to verify or qualify that their Financial Products or Financial Services meet the Target Market criteria.²⁶ Moreover, “only those Target Market verification process(es) approved by the CDFI Fund may be used when compiling Target Market data. Applicants may request approval of a Target Market verification process(es) not already accepted by the CDFI Fund however, to use a new Target Market verification process(es) when compiling Target Market data for the CDFI Certification Application, the new process(es) must be approved by the CDFI Fund prior to submission of the application. Approved CDFI Fund Target Market Verification Processes must be used exactly as approved unless and until modification of the process is authorized by the CDFI Fund.”²⁷

The proposed Target Market Verification Process policy raises a number of questions that have not been addressed in the revised Certification Application or elsewhere in the supporting documents. In particular:

1. Is there a list of “approved verification processes” and, if so, where can it be found?

Question #11 of the Updated FAQs for the Proposed CDFI Certification Application, ACR & CTRL states that the CDFI Fund is “developing a comprehensive list of approved [Target Market verification] processes an entity may use without seeking prior approval and this list will be made available prior to the finalization of the revised application... Entities still will be able to request approval of a Target Market verification process(es) not already accepted by the CDFI Fund.”²⁸

With all due respect, we find it *unacceptable* that the list of approved Target Market verification processes is still being developed and therefore, we are unable to comment or provide input on this crucial aspect of the Certification criteria.

Recommendation: We *strongly* urge the Fund **not** to finalize the revised application until industry practitioners have had an opportunity to review and respond to this list of approved processes.

²⁶ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 57, accessed 10/14/20.

²⁷ Ibid.

²⁸ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Public%20Comment%20FAQ%2009242020.pdf> Proposed CDFI Certification Application, ACR & CTRL – Request for Public Comment, Frequently Asked Questions Updated October 2020, Q.11, pg.8, accessed 10/16/20.



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2. What is the process for requesting approval from the CDFI Fund of a new Target Market verification process?

Question #12 of the Updated FAQs for the Proposed CDFI Certification Application, ACR & CTLR states that “Applicants or CDFIs requesting approval for a currently unapproved Target Market verification methodology will need to submit the request in writing for review. The details and timeframe for submission are under development.”²⁹

Again, we are troubled that the process and the timeline for submitting unapproved Target Market verification methodologies to the CDFI Fund for approval have yet to be determined. It would appear the Fund has not anticipated or fully developed all aspects of the revised Certification Application and the supporting rules and/or guidance. The lack of detail and clarity makes it very challenging for CDFIs to operate, much less innovate new products and services, if they lack the certainty of how such offerings could affect their Certification Application and/or current Certification status.

Recommendation: We *strongly* urge the CDFI Fund to develop and publish the details of this approval process prior to finalizing and implementing the revised Certification Application as well as the Annual Certification and Data Collection Report (ACR) and the Certification Transaction Level Report (CTLR), all of which will be directly affected by this process.

3. A large influx of requests to approve individual verification processes could overwhelm the CDFI Fund staff. How would such a situation be handled? What is the timeframe for review and approval of such a process?
4. Is there an opportunity to discuss or amend a proposed verification process should the Fund decline to accept a new verification process(es)?
5. What happens if you answer “No” to Question TM07? Would this prevent the Applicant from being certified without approval of its Target Market verification process? If so, this should be clearly stated in the Application along with guidance as to what Applicants in this situation should do.

As noted in our past comment letters,³⁰ many CDFIs serving an LITP Target Market qualify or verify that their loans serve their approved Target Market(s) by looking through the borrower to the “end user or beneficiary” of the financing being provided. For example, a loan to finance a multifamily affordable housing project using a government program, like the Low-Income Housing Tax Credit (LIHTC), qualifies as serving a Low-income Targeted Population based on program requirements mandating that a certain percentage of the housing units be rented to low-income families. Similarly, a CDFI making a loan to a charter school or a community health center may “look through” the project to the “end beneficiaries”

²⁹ Ibid, Q. 12, pgs.8-9, accessed10/16/20.

³⁰ See CRF’s Comment Letters on the CDFI Fund’s Certification Policies and Procedures, March 10, 2017, its Interim Rule implementing the CDFI Fund Program, October 26, 2015 and its Annual Certification and Data Collection Report Form, September 8, 2014.



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using proxies, such as the number of students receiving free or reduced lunches or the number of Medicaid eligible patients, to verify the financing is serving low-income people. However, to the best of our knowledge, none of these practices have been approved by the Fund in regulation or guidance.

The situation becomes more nuanced when applied to small business lending activities since “end users or beneficiaries” are not as easily identified or measured. CDFIs with a LITP Target Market certification have developed their own methodologies for qualifying small business loans as serving low-income populations based on information demonstrating (1) the business owner is a low-income person (such as for microenterprise businesses); (2) the business is hiring low-income people; (3) the business provides jobs accessible to low-income people; or (4) the employees are residents of low-income communities. However, each of these methods may require the collection of sensitive or personal data and may be burdensome for small businesses with limited capacity. The absence of CDFI Fund guidance on how to verify that these loans are serving LITP “end users/beneficiaries” means each CDFI has developed its own approach and metrics for qualifying their small business loans balancing the need for information and the limited bandwidth of small firms.

The absence of uniform industry standards for CDFIs means these organizations run the risk of unintentional non-compliance. We have requested the Fund develop specific protocols for verifying different types of loans or investments with input from industry practitioners based on the nature of the borrower or project and the “end users/beneficiaries”. CDFIs should be permitted to use various proxies (as described above) to easily qualify their loans and demonstrate they are directing their lending to their approved Targeted Population (TP) Target Market(s). The Fund should not implement a policy on Target Market verification processes without first seeking comments and detailed input from the CDFI industry and interested stakeholders on specific proxies and/or methodologies to be used to qualify financing activities that support “end users/beneficiaries”. The list of proxies should be regularly updated as CDFIs are continually finding new ways to serve “end users/beneficiaries”.

In the case of small business lenders serving a LITP Target Market, the Fund staff should solicit additional comments from CDFIs engaged in this type of financing to develop a specific set of protocols for this asset class. Due to the difficulties of qualifying all small business loans using a single methodology or measure, we recommend that CDFIs be allowed to demonstrate they are serving small business “end users/beneficiaries” based on one of the four approaches described above: lending to low-income business owners, businesses that hire low-income people; businesses that provide jobs accessible to low-income people; or whose employees live in low-income areas. There may be other ways to qualify small business loans serving “end users/beneficiaries” as well. We have provided additional comments in Certification Transaction Level Report (CTLR) section below where we also address questions related to LITP Target Market verification processes.

Recommendation: We ask the CDFI Fund to respond to all the questions noted above, and *strongly encourage* the staff to seek input and feedback from the CDFI industry on this critical aspect of the certification criteria. Not doing so, runs the risk of upending existing Target Market verification processes and practices that CDFIs have used for decades and could place their certification status in jeopardy. The approved Target Market verification processes must be clearly stated and must entail reasonable data collection requirements that do not impose an undue burden on CDFIs or their customers. Finally,



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there must be a well-articulated path for Applicants to anticipate and address Fund staff concerns about the verification processes they propose to use. Without such assurances, new and existing CDFIs will be left in limbo, unable to deliver vital capital and credit to the communities and people that depend on them.

Question TM03.1 What type(s) of Financial Product(s) and/or Financial Service(s) is needed within the Investment Area but is not currently available at a level sufficient to meet the need?

Noticeably absent from the drop down list of options for this question is a “Small Business Loan” option. We distinguish a Small Business Loan from a Small Dollar Loan and/or a Microenterprise Loan on the basis of size. As a national SBA 7(a) lender, CRF generally originates loans above \$150,000 and offers loans of up to \$5 million under the program guidelines.

Recommendation: The CDFI Fund should add “Small Business Loan” to the drop down list included in Question TM03.1.

Question TM03.2 & TM03.3 Indicate the basis for the Applicant’s determination that the Financial Products and/or Financial Services identified as being needed within the Investment Area are actually needed within the area.

Indicate the basis for the Applicant’s determination that the Financial Products and/or Financial Services identified as being needed within the Investment Area are not currently available at levels sufficient to meet the existing need.

What information is the Fund looking for in these questions? Banks or other types of lenders may be present in a given area but may not making loans to borrowers typically served by CDFIs. Is the Fund asking if other lenders are offering loans with similar or equivalent terms and conditions? If so, this should be clearly stated. It should be noted that fintech lenders are active everywhere because they are online which makes these questions even more confusing.

Additionally, we are concerned that Question TM03.3 may unintentionally imply that there is a certain level at which Financial Product(s) and/or Financial Service(s) are deemed “*sufficiently available*”. If such a level has been reached, would the Fund assume that additional Financial Products or Services are not necessary since the need has been met with an adequate supply? The dangerous assumption underlying this question is that the Fund is suggesting customers or organizations in Investment Area(s) should not have an abundance of credit options/services available to them, as is the case for customers in affluent areas. Instead customers in low-income areas are *only* require a *sufficient supply* of such Products and/or Services. We don’t believe this is the Fund’s intention and it should clarify this point in Question TM03.3.

Finally, these two questions are closely related and provide a clear example of where the revised Certification Application could be streamlined for efficiency purposes. Since both questions require the Applicant to provide a narrative, it would seem beneficial to combine the two into a single question and ask respondents to address both the *need* and the *current availability* of particular Financial Product(s) and/or Financial Service(s) within the Investment Area.

Recommendation: The CDFI Fund should clarify what information it is seeking in Questions TM03.2 and TM03.3 and that it does not intend to certify Applicants *only* when there is an *insufficient supply or level* of Financial Product(s) or Financial Service(s) to avoid the appearance of credit allocation or to suggest that customers operating in Investment Area(s) should not have choices when seeking such Products or Services. These questions should be combined into a single narrative.



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Question TM07 Is the Applicant using a Target Market verification process that is not identified on the full list of approved CDFI verification processes to determine whether or not Financial Product transactions have been directed to an allowed Target Market?

This question allows the Applicant to respond either in the affirmative or the negative. However, Questions TM07.1 and TM07.2 are predicated on a “Yes” response and assume that the CDFI has obtained separate approval for such a verification process. It offers no path or guidance for entities that answer “Yes” to this question but *have not* secured separate approval of their Target Market Verification process.

Recommendation: This oversight should be addressed so Applicants know how to proceed if they are using a Target Market verification process that is *not* identified on the full list of approved Target Market verification processes and have not received approval from the CDFI Fund to use their process.

Development Services

Overview

Applicants seeking to be Certified as a CDFI must demonstrate a track record of providing (directly or through an Affiliate or a contract with another provider) Development Services in conjunction with its Financial Products or Financial Services. Development Services are activities that promote community development and prepare or assist current or potential borrowers to access a CDFI’s Financial Products or Financial Services. These activities may include financial or credit counseling, homeownership counseling, and business planning.³¹

According to the Revision Quick Reference to the Proposed CDFI Certification Application “no substantive policy changes are being implemented in the Development Services section of the CDFI Certification Application.”³² However, the revised Certification Application characterizes a Development Service as “...a formal *stand-alone* (emphasis added) training, counseling, or technical assistance service that promotes access to and/or success with an entity’s Financial Products and/or Financial Services, and that the entity offers separately and distinctly from its other products/services.”³³

Moreover, the revised Certification Application details a specific list of Development Service requirements including:³⁴

³¹<https://www.cdfifund.gov/Documents/FY%2020%20CDFI%20Certification%20Quick%20Facts%2005052020%200508%20compliant%20FINA%20L.pdf>, Proposed CDFI Certification Application, Request for Public Comment, Revision Quick Reference, Community Development Financial Institutions Fund , U.S. Department of Treasury, May 2020, pg. 10, accessed 10/16/20.

³² Ibid.

³³ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 62, accessed 10/16/20.

³⁴ Ibid.



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- Offering at least one Development Service;
- Demonstrating control over the content and delivery parameters of their Development Service(s);
- Clearly linking the Development Service(s) provided by the Applicant or a relevant Affiliate, to at least one of the Applicant's Financial Products or Financial Services;
- Making at least one Development Service available on an ongoing basis at least four times per year;
- Tracking delivery of and participation in the Development Service(s); and
- Tracking staff time spent on the administration and delivery of the Development Service, if the Applicant is the provider.

Publicly-available online training can be considered a Development Service only if the Applicant can demonstrate that it has a relationship with the developer of the training, either because the Applicant is the developer, an Affiliate is the developer, or the Applicant has a service agreement in place with the developer.³⁵

The proposed Certification Application also describes those activities that CDFI Fund does not consider to be Development Services:³⁶

- Training, counseling, or technical assistance not clearly intended to prepare consumers to access and/or be successful with a Financial Product and/or Financial Service offered by the Applicant.
- Making referrals, to training, counseling, or technical assistance services provided by other entities.
- Information presented in newsletters, flyers, or online.
- Workshops for children or conferences/workshops for broad audiences.
- Presentations made at one-off events or at regular events held by other entities.
- Marketing events/activities.
- Services provided at the will and discretion of other entities (e.g., publicly available online training).
- Non-structured conversations with consumers on Development Services subject matter.

Specific Topics / Application Questions

Changes to Development Services

Although the CDFI Fund asserts that it is not making any “substantive policy changes” to the Development Services section of the revised Certification Application, we are concerned by the subtle shift in the Fund’s approach to this criteria. In particular, we were surprised by the addition of language characterizing Development Services as “a formal *stand-alone*” (emphasis added) training, counseling, or technical assistance service. This language was not contained in existing Certification guidance documents including, but not limited to, CDFI Fund Glossaries, the [AMIS - Submission Guidance for CDFI Certification Application](#) Updated – November 01, 2018, or the [CDFI Certification Application Supplemental](#)

³⁵ Ibid.

³⁶ Ibid.



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[Guidance and Tips](#) Updated – November 01, 2018. The addition of this language raises the question as to whether the Fund has changed its view on what kind of technical assistance activities meet the definition of Development Services?

CRF has long provided Development Services in the form of highly customized, one one-on-one technical assistance (TA) to our small business customers seeking to access our loan products – especially our SBA 7(a) loan. This technical assistance, while focused on helping customers secure a small business loan, can be wide ranging, including but not limited to, developing financial statements and/or projections, preparing market analyses, restructuring existing debt to improve cash flow, building a borrower’s credit profile, and explaining specific requirements of a loan product, like the SBA 7(a). To best support and strengthen the small business owner, these business advisory services are embedded in credit discussions with the prospective customer rather than being offered as a formal standardized offering. This form of TA has been at the foundation of CRF’s lending process and is essential to how we offer our loan products. It is integral to the ability of our customers to be successful in using our Financial Products.

In addition to providing technical assistance directly to our customers, CRF frequently refers small business borrowers to local Small Business Development Centers (SBDCs) and business advisory organizations, like SCORE, that can provide specialized SBA expertise and knowledge that complements and augments the capacity of our staff. These referral recommendations are made to trusted partners to ensure that customers get the best possible advice and guidance when seeking a loan.

The nature, format, frequency, and amount of TA services provided to its customers should be left to the discretion of the individual CDFI. Every customer is different, and CDFIs have developed the necessary expertise to recognize and respond appropriately to each customer’s needs. Some may require support from a CDFI while others may not. It is vital that the Fund maintain a flexible definition of Development Services so as to allow CDFIs to deliver the type and form of assistance that fits the needs of the customer rather than dictating a one-size-fits all approach to this important aspect of CDFI Certification. Inflexible parameters will limit CDFIs but even more importantly, they will rob customers, especially those that are underserved or operating in low- and moderate-income communities, of this critical element that can help them achieve their dreams through economic opportunity.

Recommendation: We urge the CDFI Fund to confirm its commitment to allow CDFIs to offer flexible, tailored, Development Services that reflect the needs of CDFI customers and the challenges they may be facing (e.g. the COVID-19 pandemic). Regardless of whether these services are delivered in person, through technology, as part of the lending process, and/or at a frequency that is best suited to the individual customer, it should be clear that such activities meet the criteria for CDFI Certification. Dictating the types of Development Services a CDFI provides to its customers will undermine the trust these organizations have built and the success they have achieved in helping to improve the economic health and well-being of low- and moderate-income communities and their residents.



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Accountability

Overview³⁷

Under the existing rules, a Certified CDFI must maintain accountability to its Target Market—the residents of an Investment Area(s) or members of a Targeted Population(s)—through representation on its governing board or advisory board. Currently, governing and advisory board members must represent both the Target Market(s) and the related geography(ies).

The revised CDFI Certification Application does not require there to be a geographic connection in order to satisfy board member accountability requirements. This is to conform with elimination of the requirement to identify geographic boundaries for most Target Markets.

An Applicant or CDFI must maintain accountability to residents of its Investment Area or Targeted Population, through representation on its governing board and/or advisory board(s). The CDFI Fund requires that a board consist of no less than three (3) members. In determining whether an Applicant maintains accountability to its proposed Target Market(s), the governing board structure must be assembled in the following manner: (1) at least one governing board member is accountable to each proposed Target Market; *and* (2) at least 33% of the governing board is accountable to the overall proposed Target Market(s).

Specific Topics / Application Questions

Accountability to National Investment Area Target Market

As noted in the Target Market section, CRF is extremely pleased to see the implementation of a National Target Market comprised of Investment Areas (IA) or eligible census tracts anywhere in the United States. This pre-qualified National IA Target Market is welcome news for CDFIs engaged in small business lending with a national service area and recognizes there is an *urgent* need for CDFIs to be able to respond to credit requests from potential customers in pre-qualified or eligible census tracts regardless of where they are located. We commend the Fund staff for taking this important step to enable CDFIs to serve the critical credit needs of their customers throughout the country.

³⁷ This section draws from two sources:

<https://www.cdfifund.gov/Documents/FY%2020%20CDFI%20Certification%20Quick%20Facts%20050520%200508%20compliant%20FINAL.pdf>, Proposed CDFI Certification Application, Request for Public Comment, Revision Quick Reference, Community Development Financial Institutions Fund, U.S. Department of Treasury, May 2020, pg. 9, accessed 10/16/20 and <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 68, accessed 10/16/20.



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The Fund has also greatly simplified the Accountability requirements associated with CDFI governing boards as well as advisory boards. The new rules provide clear guidance to CDFIs as how many board members must be accountable to each proposed Target Market as well as the total percentage of board members that must be accountable to the overall proposed Target Market(s). This guidance will enable CDFIs as to create a board structure that meets the Accountability criteria – a welcome change.

Nonetheless, we believe additional clarification should be provided to CDFIs seeking to serve a National IA Target Market. The Fund should confirm that a CDFI with a National IA Target Market can meet its accountability requirements by including *at least* one member of a national organization on its governing board (assuming this accountability method is being used) who is an “*individual who works for (as an employee or board member) an organization that primarily provides services to residents of the Investment Area.*”³⁸ (emphasis added) Of course the CDFI’s governing board must meet *all* the requirements of the new rules outlined above. It might be helpful to provide an example of how a CDFI could meet this new accountability requirement for the purposes of CDFI Certification. Note, as we recommended in the National Investment Area / Targeted Population Target Markets section above, the Fund should consider aligning the Accountability criteria for National IA Target Markets with the guidance provided to Community Development Entities (CDEs) in the New Markets Tax Credit (NMTTC) program by the Fund in its CDE Certification Question and Answer document.³⁹

Related to the changes in Accountability criteria, we also assume if an Applicant or CDFI is approved to serve a National IA Target Market and demonstrates Accountability to this Target Market through its governing board, they would not be required to maintain previously established Advisory Board(s) that served as accountability mechanisms for one or more approved statewide or regional IA Target Markets. If an Applicant or CDFI can meet the Accountability requirements through its governing board under the new Certification criteria then these Advisory boards would be redundant though an entity might choose to keep and utilize them for other purposes (market research, partnership opportunities, etc.).

Recommendation: We encourage the CDFI Fund to issue additional clarifying guidance on two aspects of the Accountability requirements associated with the new National IA Target Market. First, we suggest the Fund provide specific guidance on the types of representatives of national organizations that could demonstrate accountability to this Target Market for CDFI Certification. Second, if a CDFI is able to satisfy the new Accountability criteria through its governing board, then such an entity would not be required to retain existing Advisory Boards previously established to comply with Accountability requirements for formerly designated statewide or regional IA Target Markets that are no longer applicable.

³⁸<https://www.cdfifund.gov/Documents/FY%2020%20CDFI%20Certification%20Quick%20Facts%2005052020%20508%20compliant%20FINA%20L.pdf>, Proposed CDFI Certification Application, Request for Public Comment, Revision Quick Reference, Community Development Financial Institutions Fund, U.S. Department of Treasury, May 2020, pg. 9, accessed 10/19/20

³⁹ “The Fund advises entities that serve a large geographic area to appoint at least one person that is accountable to LICs throughout the service area to its board or advisory board. For example, an organization serving the entire nation should appoint to its board a staff person or a board member from a nationwide community development organization primarily serving LICs.” New Market Tax Credit CDE Certification Question & Answer, Community Development Financial Institutions Fund, July 2005, pgs. 9 – 10.



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Question #16 of the Updated FAQs for the Proposed Certification Application, ACR & CTRL

We are pleased to see Question 16 in the Updated FAQs clarifies that a board member of a CDFI *may* meet the Accountability test for more than one Target Market. Allowing board members to represent more than one Target Market will make it much easier for Applicants and CDFIs to have manageably sized governing boards while serving a diverse set of Target Markets. We applaud this change as it will enable us to expand our Target Markets to include Targeted Populations we are already serving but for which we could not be certified as the Accountability requirements would have made our governing board unusually large and potentially unwieldy.

Question #17 of the Updated FAQs for the Proposed CDFI Certification Application, ACR & CTRL

Do employees of a certified CDFI that serves a Targeted Population meet the accountability test to serve on the board of another entity serving that Targeted Population?

The CDFI Fund should further clarify of this question. It states that “An employee of a certified CDFI may meet the accountability test on the basis of her or his employment for a certified CDFI *only* (emphasis added) when serving as a board member for a CDFI with a Target Market of OTP-CDFI. An employee of a CDFI may still serve on the board of other CDFIs that do not have a Target Market of OTP-CDFI but must meet the accountability test based on other accountability criteria. For example, a Hispanic employee of a certified CDFI may meet the accountability test if serving on the board of another CDFI with a Target Market of OTP-Hispanic on the basis of being a member of the Other Targeted Population. However, a white employee of a certified CDFI would not meet the accountability test if serving on the board of another CDFI with a Target Market of OTP-Hispanic, even if the CDFI by which the board member is employed also has a Target Market of OTP-Hispanic. Either employee would meet the accountability test if serving on the board of another CDFI with a Target Market of OTP-CDFI.”⁴⁰

We assume this question is *only* applies to the Accountability requirements for the governing boards of CDFIs serving OTP Target Markets and *does not* apply to such requirements for governing boards of CDFIs serving LITP Target Markets. We find it hard to believe that the CDFI Fund would not allow an employee or a board member of a CDFI (with an LITP Target Market) to provide accountability as a representative of an organization that serves low-income people or communities on the governing board of another CDFI. Otherwise, it would appear that CDFI employees / board members could *only* serve on the board of a CDFI that is serving other CDFIs (i.e. CDFI Intermediaries) or if the employee demonstrates accountability through another characteristic (such as race or ethnicity). This rule makes no sense for CDFIs with an LITP Target Market. In fact, it is common practice for leaders of CDFIs to sit on each other’s governing boards to meet the accountability requirements for CDFI Certification as well as to provide their expertise and partnership opportunities. For

⁴⁰ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Public%20Comment%20FAQ%2009242020.pdf> Proposed CDFI Certification Application, ACR & CTRL – Request for Public Comment, Frequently Asked Questions Updated October 2020, Q.17, pg.11, accessed 10/19/20.



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these reasons, we believe the guidance provided in Question 17 was intended to focus *exclusively* on the accountability criteria for OTP Target Markets which mandates that board representatives be members of the OTP in order for them to be deemed accountable to the Targeted Population.

Recommendation: The CDFI Fund should clarify that Question 17 of the Updated FAQs applies *only* to the Accountability requirements for OTP Target Markets and not for LITP Target Markets. We do not believe the Fund intends to restrict the ability of CDFI employees and/or board members serving an LITP Target Market(s) to provide accountability to such populations when serving on the governing boards of other CDFIs with a similar Target Market(s).

CERTIFICATION TRANSACTION LEVEL REPORT (CTLR)

Overview

The Certification Transaction Level Report (CTLR) is a new reporting document intended to support both the revised Certification Application and the Annual Certification and Data Collection Report (ACR). Applicants seeking CDFI Certification and certified CDFIs that are not current Financial Assistance recipients and therefore do not submit an annual Transaction Level Report (TLR) to the CDFI Fund will be required to file this new report.

Questions Related to the CTLR

Will the methods for qualifying loans outlined in the CTLR be applied in the TLR which CDFIs that have received a Financial Assistance (FA) award are required to file? Specifically, will CDFIs filing the TLR be required to use the same methods for qualifying LITP loans as detailed in the proposed CTLR? If so, when will this new methodology be incorporated into the TLR and when will CDFI award recipients be required to comply?

Specific Topics/Questions

LITP End Users and Implications for Small Business Lending

The issue of which Target Market verification processes CDFIs use is extensively discussed in above (see Target Market Verification section). These processes are particularly challenging for CDFIs with LITP Target Market(s) engaged in small business lending. We will briefly recap several concerns discussed above related to LITP End Users.

The CTLR explicitly states that entities may code loans as serving an LITP Target Market however, such coding should be based on the collection of income data per the CDFI Fund's Regulations and the CDFI Fund's approved LITP income verification processes. For cases where the CDFI Fund has approved an entity's method to determine LITP End Users that method can be used to designate transactions as long as there is supporting documentation.⁴¹ Similarly, the revised Certification Application states that "only those Target Market verification processes approved by the CDFI Fund may be used when compiling Target Market data" and refers CDFIs to "the full list of approved CDFI Fund verification

⁴¹ <https://www.cdfifund.gov/Documents/CTLR%20FINAL%20MAY%202020.pdf>, Certification Transaction Level Report, pg. 4.



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processes.”⁴² Unfortunately, as is explained in Questions 11 and 12 of the Updated FAQs for the proposed Certification Application, ACR and CTLR, the CDFI Fund is still “developing a comprehensive list of all approved processes an entity may use” as well as a “process for obtaining approval for a verification methodology that is not yet approved.”⁴³

Recommendation: The CDFI Fund should **refrain** from finalizing new CDFI Certification documents and criteria until practitioners and industry participants have a reasonable opportunity to offer comments and input on potential LITP Target Market verification processes and protocols. Without standard processes or guidance from the CDFI Fund and due to the significant challenges of collecting household (family) income from small business employees, many CDFIs developed their own verification methodologies by using proxies to confirm that their loans are being directed to low-income end users. This approach was modeled after similar practices used by CDFIs lending to affordable housing projects, charter schools, community health centers and other community organizations, where they routinely utilized low-income proxies (e.g. the Low Income Housing Tax Credit, students receiving free and reduced lunches, Medicaid eligible patients, etc.) to demonstrate that the end users or ultimate beneficiaries of their financing activities are low-income people. Small business lending CDFIs have relied on their own verification methodologies for many years, perhaps decades. To potentially upend them without a reasonable comment period and the opportunity to gain uniform Fund approval for a broader list of verification processes could have negative repercussions for the CDFI industry as well as the small businesses that depend on them.

CIMS Census Block Group Geocoding

To address the difficulties of collecting income data from small business employees, the CDFI Fund introduced its own proxy or alternative method for qualifying small business loans as serving LITP Target Markets. This approved alternative proxy method is known as Census Block Group Geocoding and would be available to CDFIs through the CDFI Information Mapping System (CIMS). According to the CTLR, “This proxy LITP method provides a standardized approach for determining LITP status that overcomes a data limitation that many CDFIs confront when attempting to implement the statutory guidance for collecting household income adjusted for family size. With the exception of mortgage loans, CDFIs and other lenders underwriting consumer and business loans typically do not collect information on family or household income adjusted for family size, which means they cannot readily confirm whether the loan meets the statutory requirements for a Low-Income Targeted Population. The LITP Census Block method provides an approved alternative approach for coding transactions that constitutes a safe harbor.”⁴⁴

⁴² <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Application%20for%20Comment%20May%202020.pdf>, CDFI Certification Application for public comment, pg. 57, accessed 10/14/20.

⁴³ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Public%20Comment%20FAQ%2009242020.pdf> Proposed CDFI Certification Application, ACR & CTLR – Request for Public Comment, Frequently Asked Questions Updated October 2020, Qs.11 & 12, pg.8, accessed 10/20/20.

⁴⁴ <https://www.cdfifund.gov/Documents/CTLR%20FINAL%20MAY%202020.pdf>, Certification Transaction Level Report, pg. 4.



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Question 13 of the Updated FAQs explains how the Census Block Group geocoder actually works. This LITP methodology uses a combination of a borrower's location and the income distribution of a Census Block Group. It generates a 12-digit code for a loan based on its geocoded location in a Census Block Group. Unlike the geocoding of Investment Areas (which are based on census tracts), the proposed LITP methodology would be based on an underlying Census Block Group's percentile distribution (i.e. the block group's rank compared to other block groups) of household income that is less than or equal to 80% of Area Median Income. This approach would enable CDFIs to code transactions as low-income based on a borrower's location in a qualified LITP census block group that is outside of a qualified Investment Area census tract.⁴⁵

Our concerns about the Census Block Group Geocoder are three-fold. First, CDFIs are not familiar with and therefore do not understand the Census Block Group Geocoding method at this time. They need an opportunity to familiarize themselves with this proposed approach. Second, this new geocoding capability has not yet been built in CIMS as the Fund makes quite clear in Question 20 of the Updated FAQs.⁴⁶ Third, without the ability to test this LITP methodology, CDFIs engaged in small business lending have no way of knowing whether this alternative verification process will allow them to qualify their loans. Since most CDFIs have had their lending criteria and processes in place for many years, it is *essential* that they be able to determine if the loans they are making or have made would be deemed to be serving their LITP Target Market(s). If, for some reason, this alternative methodology is not a good fit for some CDFIs, the Fund should provide an expedited process to review Target Market verification processes developed by individual CDFIs to assure a smooth and uninterrupted transition to the new Certification rules.

Recommendation: The CDFI Fund should provide educational webinars on the Census Block Group Geocoder to help CDFIs understand this alternative LITP verification methodology. They should also make this new tool **available as soon as possible** in CIMS so CDFIs, especially small business lenders, can test this alternative approach. Along with this new geocoding tool, the Fund needs to provide a detailed process and timeframe for reviewing and approving LITP methodologies developed by individual CDFIs in the event that this tool is not a suitable option for some entities. Finally, the Fund **should not** implement a final set of revised and/or new Certification documents and criteria until CDFI practitioners and industry participants have had an opportunity to provide comments and feedback on both the Census Block Group Geocoder as well as the Fund's process for vetting other LITP Target Market verification processes.

ANNUAL CERTIFICATION AND DATA COLLECTION REPORT FORM (ACR)

Overview

Question Related to the ACR

⁴⁵ <https://www.cdfifund.gov/Documents/CDFI%20Certification%20Public%20Comment%20FAQ%2009242020.pdf>, Proposed CDFI Certification Application, ACR & CTLR – Request for Public Comment, Frequently Asked Questions Updated October 2020, Q.13, pg.9, accessed 10/20/20.

⁴⁶ Ibid, Q. 20, pg.12.



November 4, 2020

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Section 1. Primary Mission / Community Development Strategy of the ACR states, “Currently certified CDFIs that received their certifications prior to the implementation of the revised application **will be required to submit a revised Certification Application separately** and will not be required to respond to this question in the ACR until such time.”⁴⁷ (emphasis added) This statement makes it clear that currently certified CDFIs *will* be required to be recertified by submitting a revised Certification Application. This requirement is not stated in the revised Certification Application itself and should be clearly reflected in that document.

Recommendation: The CDFI Fund should clearly indicate that *all* currently certified CDFIs will be required to prepare and submit a revised CDFI Certification Application to demonstrate adherence to and compliance with the new Certification criteria once it has been implemented. The Fund should also provide a timeframe within which certified CDFIs will be expected to submit this Application and the process that will be used to ensure timely review and recertification of these organizations.

CONCLUSION

We appreciate the significant efforts of the CDFI Fund staff to strengthen the CDFI Certification criteria. This has been a long and challenging process due to the diverse CDFI landscape and the critical nature of preserving the CDFI “brand”. Changes in product offerings and technology as well as dramatic shifts in the economic environment have added complexity to this effort.

In light of these factors, we respectfully request that the Fund look carefully at all the comments submitted by industry stakeholders before finalizing its certification policy. There are several aspects of the certification criteria that merit further industry input and where tools and processes necessary to implement this new rule have yet to be developed. The Fund should provide an opportunity for additional comments and input where appropriate to ensure the new policy is thoroughly considered and achieves the objectives the CDFI Fund has articulated.

Thank you again for your on-going efforts to support and grow the CDFI industry. We stand ready to assist you in efforts to strengthen CDFI Certification criteria. Please do not hesitate to contact me if you have any questions about the comments contained in this letter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Frank Altman', written over a white background.

Frank Altman
CEO

⁴⁷ <https://www.cdfifund.gov/Documents/Annual%20Certification%20Report%202020%20Final.pdf>, Annual Certification and Data Collection Report for public comment, August 12, 2019, pg. 3, accessed 10/21/20.