December 5, 2022

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Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
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Re: CDFI Certification Application/OMB Control Number: 1559-0028

The African American Alliance of CDFI CEOs (the Alliance) is pleased to provide the following comments in response to the CDFI Fund's (the Fund) request for information regarding the revised Community Development Financial Institution (CDFI) Certification Application. The Alliance is a membership-driven intermediary organization that aims to: build the capacity of member organizations; build bridges to economic stability, well- being, and wealth for Black individuals, families, and communities; and build power in Black communities by challenging and influencing financial sectors to operate more equitably. Since launching in 2018, the Alliance has established a network of 70 CEOs of Black-led Community Development Financial Institutions (CDFIs), which includes loan funds, credit unions, and venture capital funds. Alliance members reach historically underserved communities in all 50 states by providing financial services in the small business, affordable housing, and commercial real estate development sectors.

The Alliance applauds the Fund's effort to address the concerns of many CDFIs and CDFI member organizations during the 2020 comment period. By making changes to the CDFI Certification Application it holds future organizations wishing to obtain the CDFI designation accountable. The Alliance is aligned with many of the Fund's suggested changes to the application and would like to provide comments and recommendations on collecting race and demographic data on CDFI leadership, the primary mission test where responsible financing criteria is clearly laid out for potential CDFI applicants, the target markets section regarding geographic areas and adjustment of the financial products threshold and the accountability section for governing and advisory boards. The Alliance believes the Certification Application changes will help those CDFIs with the highest levels of service delivery stay accountable to the minority and underserved populations that they serve.

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Collection of data based on Race & Ethnicity

Currently, the CDFI Fund does not gather information about the race and ethnicity of CDFI leadership or ownership. The only CDFIs for which this information is gathered are CDFI Fund awardees, which provide this information as part of their institutional level reports (ILR). Even so, the CDFI Fund does not report or publish the amount of CDFI Funds awarded in a way to assess the initial award amounts by minority ownership status. Consistent reporting standards on race and ethnicity date do not exist for CDFI Fund awardees. As discussed in this section, this information gap creates a tremendous gap for the CDFI Fund and the CDFI industry as whole to measure the extent to which the CDFI Fund resources are equitably distributed and sufficiently reaching borrowers and communities of color. The proposed CDFI certification and annual reporting requirements do not fill these gaps. As such, this section provides new analysis on why this information is necessary and recommends four questions to ask of all CDFIs (see below).

In April 2020, Hope Policy Institute completed an initial analysis of assets held by CDFI Fund awardees in FY 2014 and FY 2017. In that analysis, our Alliance member, found that in FY 2017, the average assets held by white-owned CDFIs were more than double that of minority-owned CDFIs. This analysis was expanded this analysis to cover all years for which the data are available (FY 2003 – FY 2017) to see if racial disparities existed overtime.[1] To ensure additional accountability to the Fund's mission, the Alliance suggests that data based upon race is gathered for purposes of understanding if it's meeting the needs of those it's intended to serve. While it is encouraging to see that the proposal asks whether the applicant is a Minority Depository Institution (MDI) or not; there is no proposed definition for a MDI and it is unclear how this would apply to non-depository loan funds, many of which are minority-led. As such, to ensure robust gathering of this information, while balancing a variety of CDFI business models, the CDFI Fund should include the following questions in the Basic Information section of the CDFI Application and collected annually from all CDFIs:

- Is the CDFI designated as an MDI by the Federal Depository Insurance Corporation (FDIC) or National Credit Union Association (NCUA)?
- What is the race, ethnicity, and gender of the CDFI's CEO/Executive Director/President?
- Are more than 50 percent of the Board of Directors minority individuals?

"Minority" should be defined as any person who is Black American, Hispanic American, Asian American, Native American, Native Alaskan, Native Hawaiian, or Pacific Islander. The CDFI Fund should make this information publicly available on the CDFI Fund website. Doing so is consistent with the helpful practices of both the FDIC and NCUA publishing public lists of MDI credit union and banks on their websites. The information gathered above should also be part of the public reporting for CDFI Fund awardees. CDFI Fund should also gather data about how well CDFIs are providing Financial Products to borrowers and communities of color, regardless of the method chosen to meet its Target Market. Towards this end, the CDFI Fund should require, as part of the certification and annual reporting, CDFIs to provide the following information:

- Over the last three years, did the CDFI provide more than 50 percent of its lending, in number and dollar amount, to census tracts where more than 50 percent of the residents are minority?

A good starting point would be monitoring Home Mortgage Disclosure Act (HMDA) reporting, and once finalized, reporting required under Section 1071 of the Dodd-Frank and Consumer Protection Act. If the CDFI Fund does not gather and publicly report this information, it will not be possible to know if the Fund is closing or perpetuating resource gaps for minority-led, minority-owned, and minority-serving CDFIs. Data from the 15 years of CDFI Fund awards show little progress in closing the asset gaps and funding gaps between minority-owned and white owned CDFIs. [2]

Primary Mission Test

The Alliance is pleased to see the revisions made in the primary mission section of the Fund's Certification application. It is critical to ensure that the intent of the CDFI Fund is met with each

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[1] https://www.hopeinstitute.org/

[2] https://www.hopeinstitute.org/

organization that receives this important certification. For organizations to have a community development strategic plan and responsible lending practices is key to making sure that the people that are intended to be served receive the best products and services without incurring additional debt which inhibits them from closing the wealth gap. Additionally, the Alliance agrees with the CDFI Fund's goal of including proposed revisions "to maintain the integrity of what it means to be a certified CDFI from a mission perspective."[3] The quality of products and services offered cannot be separated from the question of how CDFI's fulfill their mission of serving economic distressed communities. The Alliance is supportive of the information the CDFI proposes to gather and would like to highlight three specific areas of note: Truth in Lending Act (TILA), mortgage loans, and Community Reinvestment Act (CRA) compliance. Utilizing the TILA methodology to institute responsible lending practices in terms of loan rates for small businesses and consumers is essential when one of the Alliance's missions is to close the racial wealth gap in communities of color. The Alliance affirms that gathering of information about pricing in terms of the Military annual percentage rate (MAPR) and is encouraged that the Fund prohibits future CFDIs from making loans in excess of 36 percent MAPR (unless lower as required by state law). For example, according to one of the Alliance members, HOPE Credit Union, they are aware of CDFIs making small dollars loans reaching up to 190 percent APR. These high rates undermine, CDFIs' Fund's goal, which as it says, "is an inclusive economy: an America where all citizens have the chance to participate in the mainstream economy."[4] These types of practices make it difficult for borrowers to repay their loans and sustain their livelihoods. Research shows that high-cost loans, even when structured with longer-terms and over installments, can have devastating effects on people's financial situation.[5]

The Alliance is also pleased to see the CDFI Fund requires CDFI applicants mortgage loans are compliant with qualified mortgage (QM) standards as provided in the Consumer Financial Protection Act. This means: (a) no negative amortization, interest-only payments, or balloon payments; (b) adjustable-rate mortgages underwritten at the maximum rate in the first five years; (c) original maximum term of 30 years; and d) total points and fees generally not exceeding three percent of the loan amount. These product protections, along with provisions to ensure CDFI mortgage lenders adequately assess a borrower's ability to repay, will help ensure responsible mortgage lending while allowing innovation in underwriting that may benefit communities that CDFIs serve.[6] As revisions are currently being considered for the CRA, the Alliance agrees that if a potential CDFI applicant has received below satisfactory CRA rating that they will not receive a CDFI certification. This act is important to preserve the important intent of both programs where the mission is focused on serving those who need it most in underbanked and underserved communities.

Target Markets

As currently proposed, two significant changes to the Target Market test – removal of geographic boundaries and lowering of the required lending threshold into the Target Market – raises concerns.

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[3] CDFI Fund, Notice of Information Collection and Request for Public Comment, Federal Register, Vol. 85, No. 89, page 27276, May 7, 2020, https://www.cdfifund.gov/Documents/2020-09747-Certification percent20Application.pdf

[4] CDFI Fund, "CDFI Fund's Fact Sheet," https://www.cdfifund.gov/Documents/CDFI_Brochure percent20Updated percent20Dec2017.pdf

[5] HOPE Comments to the Office of the Comptroller of the Currency, Sept. 2, 2020 http://hopepolicy.org/blog/hopesubmits-comments-opposing-occ-true-lender

[6] For more discussion on this recommendation, see Self-Help and Center for Responsible Lending, Comments to the CDFI Fund, Proposed CDFI Program--Certification Application, Nov. 5, 2020.

In each individual proposal scenario and particularly when combined, these will allow CDFIs, particularly depositories, to be located in and take deposits from underserved Target Markets while having a diminished obligation to lend in those same communities. As described more fully below, the Alliance is concerned about the dilution of funds to the most economically distressed communities as well as diversion of investments from CDFIs with experience in these markets. This is not the direction the CDFI industry should be headed.

Geographic Boundaries

The Alliance urges the CDFI Fund to keep the geographic boundaries for Target Market tests. The removal of geographic boundaries risks diluting the number of resources invested in the hardest to serve communities. If CDFIs can choose economically distressed census tracts anywhere in the country, then it is likely more national CDFIs will chose to invest in the tracts in larger, urban areas rather than reaching into harder to serve tracts with deeper poverty rates and fewer resources such as rural and majority people of color communities. Maintaining the geographic boundaries helps ensure that regional and local CDFIs remain competitive in the application process for scarce resources to serve the hardest to reach areas in any given market. Our concern is not hypothetical. The CDFI Fund's New Market Tax Credit (NMTC) activity provides an informative example. While there is NMTC investment in the Deep South, it is heavily concentrated in New Orleans, a market where capital has been plentiful to fund projects over the last 15 years as the city rebuilt after Hurricane Katrina. These concerns hold true beyond the Deep South, and for rural, persistent poverty counties generally. According to Hope Policy Institute, from FY 2003 to FY 2017, 75 percent of NMTC investments in persistent poverty counties were in metro areas.[7]

For our members in funding projects in harder to reach communities the ability to have a mix of projects on our balance sheet is critical. It becomes harder to accomplish this goal if out-of-region or national CDFIs can easily do these deals in urban areas at the risk of pushing out those already located in these markets. An additional concern is that there are weaker ties for community accountability if the CDFI is not located in the market; however the proposed geographic requirements for the Board members in relation to the target markets served alleviates some of the concern. As such, the Alliance does not want this proposal to further disadvantage CDFIs with a long track record serving the most economically distressed areas. We urge the CDFI Fund to maintain its geographic boundaries for the Target Market test. To the extent that the CDFI Fund does proceed with this change, perhaps allow lenders to count – in limited circumstances – activities outside of their geographic boundaries towards the Target Market test (i.e., activity in investment areas in persistent poverty counties or to investment areas in times of national crisis, such as COVID-19 where CDFIs expanded to meet emergency needs in areas beyond their geographic footprint).

Financial Products Threshold

The Alliance believes that applicants for the CDFI application must substantiate their track record of their lending activities to direct its Financial Products to CDFI Fund Target Markets. The CDFI Fund also proposes to lower the threshold of dollar volume of financial products to reach a CDFI's Target Market. Currently, a CDFI must provide 60 percent of the dollar value of its Financial Products to the Target Market. The CDFI Fund's proposal to allow depositories to reach a lower threshold of 50 percent of dollar volume of Financial Products to the Target Market if the depository also provides 60 percent of its total number of financial products to one or more of the Target Markets, is

[7] Sara Miller, Hope Policy Institute, Analysis of data from the CDFI Fund FY 2019 NMTC Public Data Release: 2003-2017 Data File and CDFI Fund Persistent Poverty County data

concerning because many of the Alliance members serve unbanked populations. The Alliance recognizes the need for bank account access to underserved communities. The Alliance agrees with the Fund's proposal that depository accounts should be an option of meeting the Target Market test by demonstrating that at least 60 percent of its total unique depository account holders are members of one or more eligible Target Market(s). Rather than allowing a lower threshold for Financial Products, the Alliance encourages the CDFI Fund, in its operationalization of accounting for Financial Services as part of the Target Market Test, to require an applicant to reach 60 percent each for both Financial Services and Financial Products thresholds.

Accountability

The Fund proposes four options for governing and advisory board options for proposed CDFI Fund applicants. The first option would require 33 percent of an applicant's governing board to be accountable for the overall proposed target market(s). The second option requires an applicant with a governing board supplemented by an advisory board to have at least 20 percent of the governing board members accountable for one target market and at least 60 percent of the advisory board accountable to the overall target market. The third option requires that Credit Union applicants have at least 33 percent of its members be a part of the CDFI Fund approved target markets, and that 60 percent of the advisory board be accountable to the overall target market. Finally, the fourth option is for applicants with advisory boards only and no formal governing board – such applicants must demonstrate 80 percent of the advisory board is accountable to the overall target market.

The Alliance believes that at least 51 percent of CDFI's governing board representatives should be members of a minority population in order to demonstrate accountability to minority populations. While we are cognizant of the concern that minimum thresholds for board member representation may inhibit a CDFI's ability to identify and retain qualified board members, we do not view a "50 percent plus one" requirement as a significant limiting factor for CDFIs in their recruitment of talented and diverse individuals that share their strategic and operational vision. Furthermore, the Alliance believes the benefits of a governing board that is representative of the minority population it serves far outweigh any risk that the performance of the governing board is adversely impacted by such a requirement.

As stated, the Alliance strongly prefers that a majority of CDFI governing board members be members of minority populations in order to satisfy the Fund's target market designation. However, we would support an exception to the "50 percent plus one" board governance rule if other standards for demonstrating accountability to minority populations are met. For instance, CDFIs should be allowed to meet the MLI accountability requirement with less than 51 percent of minority representation on its board if: (i) it has at least 33 percent minority representation on its governance board; and (ii) it has at least 51 percent minority representation on its loan committee; and (iii) at least 33 percent of its senior executive leadership individuals that identify as minorities; (iv) at least 51 percent of its day-to-day management personnel (e.g., directors) are individuals that identify as minorities; and (v) it has as its CEO someone who identifies as a minority. The applicant seeking CDFI Fund designation means described above should have a track record of at least three years of direct financing experience and has dedicated at least 60 percent of its direct financing dollars to minorities or minority majority census tracts. While providing flexibility around CDFI governance board composition, this recommendation also ensures that CDFIs have demonstrated a commitment to serving minority populations through several stringent mechanisms.

The Alliance believes that CDFIs serving multiple minority populations should have board governance compositions that are reflective of each of the minority populations served. To the extent practicable, the minority membership of the CDFI governing board should approximate the percentage of CDFI's borrowers that belong to a minority population. In other words, if 70 percent of a CDFI's minority customers identify as Black and 30 percent identify as Hispanic, then the CDFI should strive for a similar ratio for its minority governance board membership.

However, the Alliance understands that, for any number of reasons, an applicant may not have governing board or advisory representation reflective of each of the minority populations it serves in such cases, an applicant should not be disqualified from receiving a CDFI certification if they can demonstrate that it has made a good faith effort to have a governing board that is reflective of the minority populations it serves.

The Alliance believes that the CDFI Fund is taking the necessary steps to strengthen the entry into this important federal program that impacts underserved communities across the country. For America to succeed we need to make sure that African Americans have equal opportunities to contribute to the economy as business owners who create jobs and build wealth. If improved while maintaining public input and accountability, we believe the proposed changes could help reduce inequalities, disinvestment, and other disadvantages in America's overlooked communities.

Sincerely,

Lenwood V. Long Sr.
President and CEO
African American Alliance of CDFI CEOs