June 10, 2024

Ms. Pravina Raghavan
Director
Community Development Financial Institutions Fund
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

RE: Revised CDFI Certification Application, December 7, 2023

Dear Director Raghavan:

The members of the undersigned trade associations, representing the full range of Community Development Financial Institutions, respectfully submit the enclosed comments on the Revised CDFI Certification Application, released December 7, 2023.

We are grateful for the consideration CDFI Fund staff devoted to the process of revising the application and associated reporting materials. We appreciate the CDFI Fund's focus in this proposal on ensuring transparency and consistency through annual reporting, and on ensuring that communities across the nation are reliably served with responsibly priced and structured financial products and services. The application that was released in December of 2023 included many important, positive changes from the November 2022 proposal that improved the process for CDFIs of all types.

We are concerned, however, about a number of proposals that have been carried through to the final application and guidance. Some of these changes will challenge the efforts of many fully eligible CDFIs to achieve recertification, and others may cause the field as a whole to be less flexible and responsive to the needs of the historically excluded and economically disadvantaged, low- and moderate-income (LMI) communities that CDFIs exist to serve.

Our comments below are generalized to reflect the combined concerns of CDFIs of all types. Where there is a need for more detailed analysis and support for the validity of the concerns, individual trade associations will share those with the CDFI Fund under separate cover.

General Recommendations on the Certification Process

Cure or Hold Harmless Period for Recertification

CDFIs conducted their 2023 business under then-current standards, but 2024 applicants for recertification will be evaluated on their activities conducted before the new standards were published.

The new CDFI certification application introduces new requirements, but the guidance provides insufficient time for organizations to make conforming changes.

We believe it is not appropriate to hold CDFIs retroactively accountable to new standards. We strongly urge the CDFI Fund to provide a period of time (e.g. a “cure” or “hold harmless” period) and clearly articulated standards for unsuccessful recertification applicants to make necessary changes to maintain their certification and resulting compliance with program requirements.

Without a cure period, the recertification process will hold CDFIs to an inconsistent standard, and risks decertifying a large number of effective, legitimately certified CDFIs. Further, the proposed single-year retroactive standard for 2024 recertifications is less flexible than the standards for future recertifications: The CDFI Fund’s plan to permit an alternate three-year average of Target Market activity for recertifications will only be possible beginning in 2026, after CDFIs have amassed three-years’ worth of lending data that has been analyzed under the new standards. The CDFI Fund should allow currently certified CDFIs to include Target Market data from 2021 and 2022 in any calculation of three-year averages.

In a hypothetical “cure period” scenario, for 2024 recertification applications, if a CDFI fails to qualify based on issues that are due to changes in certification standards that could not have been foreseen, and that require substantial time and effort to reconfigure (which may include policy revisions, establishment of new accountability structures and data collection systems for new target market verification requirements), that entity should have a path to remain certified for at least three (3) years, pending the submission of an application in 2025 that shows compliance in 2024 with the new standards for target market activity, financial products and services, financing entities, and accountability.

We urge the CDFI Fund to adjust its policy to ensure that CDFIs applying for recertification receive fair consideration for target market, financial entity, governance and primary mission standards consistent with the time period of the recertification application. These CDFIs require sufficient time to adjust practices which are either long standing, or particular (and fundamental) to their business.

Examples

<u>Financing Entity Test</u> - Unregulated CDFIs report challenges with the Financing Entity test requirement that applicants provide their average total full-time equivalent staff for the 12 months immediately prior to the submission of the recertification application. For applicants that need to make organizational changes due to the changes in Financing Entity and Development Services sections, there is not enough time to accommodate these new requirements. Some of the organizational changes that may be necessary to accommodate these new requirements, including creating legal affiliates, come at great expense and can take a year or more to implement.

<u>Investment Areas</u> - Many CDFIs report challenges due to the composition of their Target Market Investment Areas (IAs). Whether these are unregulated or regulated CDFIs, a cure period is essential for CDFIs recertifying using IAs.

For example, areas where CDFI tract eligibility is driven primarily or exclusively by poverty rates saw a vast nationwide reduction in the number of qualified tracts in 2020. Whereas 31% of the tracts in the US met the eligibility criteria of at least 20% poverty rate in 2015, only 23% of tracts met the same criteria in 2020. We believe this significant reduction in poverty-based eligibility is likely due to the *temporary* impact of COVID stimulus programs in 2020. As the Center of Budget and Policy Priorities has documented, absent such programs the poverty rate in the U.S. would have increased 2.5% in 2020; however, because of these programs, the poverty rate actually decreased by 3.1%.

There are other factors underlying the IA challenges facing rural CDFIs especially. For example, under the new standards, non-metro counties no longer qualify as units for IAs. Apart from a cure period for adjustment, analysis supports rescinding that change - of 22 CDFI banks in a sample, 40% would have qualified for recertification if their lending in qualified non-Metro counties were counted as Investment Area lending.

While the new Pre-Qualified IAs are a solution for some CDFIs, others are unable to recertify based on a Pre-Qualified IA alone. Some number qualify within the new criteria for Customized Investment Areas (CIAs) *for now*. The 85% standard for activity within qualifying census tracts, however, makes it virtually impossible for many CDFIs to rely on being able to include all CIA activity in their Target Market calculations from year to year.[1]

<u>Target Market Verification Methodologies</u> - Other CDFIs, wishing to explore the Low Income or Other Target Population options, cannot establish the qualifying historic borrower characteristics, and require more time to set up processes for future periods. In addition, it is unclear what the Fund's process will be for CDFIs that seek recertification using a new methodology that will require Fund approval. Clarifying the timeline, process, and what happens if a new methodology upon which a CDFI's recertification relies is not approved is critical to ensure CDFIs understand how to approach recertification with methodologies that will require Fund approval.

The significant changes in the Target Market Verification methodologies alone require significant changes in data collection and analysis for countless CDFIs. For example, changes in OTP verification methodologies are particularly troubling for CDFIs that serve highly diverse communities. Target Market analyses are meant to determine, within an acceptable margin of error, whether financing activities are distributed in specific Target Markets at an *institutional* level. For many reasons, classification of an individual borrower will always be subject to error – no less than the classification of a specific census tract for a Target Market IA based on historic, rather than current, data. Without additional Target Market verification methodologies, CDFIs are left with significant work to rebuild and reconfigure policies and systems for data collection and analysis.

CDFI depositories face a particular challenge in this regard. While the new standards offer a "Financial Services Option" for CDFI Depositories, which considers the Target Market characteristics of unique account holders, the current list of approved verification methodologies does not allow for the classification of the vast majority of account holders who do not apply for loans in any given year. As a result, the Financial Services Option is effectively moot for LITP since depositories cannot ask individuals to provide sensitive income information merely to open a depository account. This change in data

[1]For example, analysis conducted by consultants working primarily with regulated CDFIs serving southeastern states and rural communities report that between 20% and 30% of clients will be unable to recertify due to changes to the criteria for Customized Investment Areas (CIAs) under the Target Market test that are not compensated for in the new Pre-Qualified IAs.

collection requirements imposes an unnecessary burden on low-income consumers – unnecessary because alternatives exist that are accepted by federal regulators.

Organizations in the above situations, and many more, require both more time, as well as flexibility, to adjust their operations. These changes illustrate the need for a cure period for existing CDFIs who are struggling; many of these CDFIs just need time to adjust to the combined effects of certification rule changes and updated tract eligibility.

Demystifying the Decertification Process

The situation is aggravated by uncertainty about the consequences for losing certification. Decertifying a CDFI exposes it to noncompliance or future ineligibility for CDFI Fund awards. It also affects eligibility or compliance with other Federal investments and programs (Treasury's Emergency Capital Investment Program, EPA's Greenhouse Gas Reduction Fund). To address these concerns, we recommend the CDFI Fund clearly document the path to recertification, including by issuing guidance stating explicitly how existing CDFIs will be treated if they are not recertified. This risk can be mitigated by providing a long enough cure period to permit the orderly resolution of any conflicts deriving from their CDFI status. The guidance should also distinguish the circumstances that would disqualify CDFIs in a cure period from applying for new awards, versus those in which award applications may be submitted.

Target Market Assessment Methodologies

Dispersion of Borrower Locations

In the Pre-Approved Target Market Assessment Methodologies, CDFIs of all types serving geographic IAs will be required to "determine" the percentage dispersion of individual and business locations within the Investment Area. Taking this approach to business locations will be very impractical and burdensome for CDFIs engaged in small business lending, it will hold many CDFIs to an impossible standard.

For example, many CDFIs originate thousands of business loans annually. It is not part of the loan origination process to collect, record and geocode every "business location," which could include tens, and possibly hundreds of locations, as this information is not related to the underwriting of the loan. Further, "business location" is not one of the listed Pre-Approved Assessment Methodologies for Investment Areas (Listed options include "Residence" and "Project/Service"), making it unclear which census tracts CDFIs should report if the "business locations" are in multiple tracts within the Investment Area. This points to a disconnect in how this Methodology is implemented.

To resolve this, we recommend that "Primary Business Location" be added as a Pre-Approved Assessment Methodology, and that Applicants be allowed to designate a *primary* address for each non-real estate business loan at the time of origination that will then be used for *all* CDFI-related purposes. This will protect the CDFI program from Applicants choosing an address that qualifies for each program, but recognizes the limitations of CDFIs' business processes and systems.

Using CIMS

We are concerned that the CDFI Fund expects CDFIs to use the CDFI Information Mapping System (CIMS) for all geocoding. The Pre-Approved Assessment Methodologies specifically state "using CIMS" in the Pre-Approved Assessment Methodologies to determine whether a residence or project/service is in an IA eligible tract. Unfortunately, there are several issues if CIMS is the only option allowed.

CIMS is Not an Adequate Tool for All CDFI Geocoding - Specifically, CIMS is easily overwhelmed (sometimes failing to process entirely) when bulk geocoding or when many entities use it at the same time.

Commercial Geocoding Services Provide Important Efficiencies - Large volume CDFIs can sometimes find efficiencies by using commercial geocoding services that can interface with automation software these CDFIs use to analyze their reports. However, CIMS cannot interface with this software, forcing humans to manually upload reports. Compounding the issue above, this results in wasted man-*hours* and risks introducing manual error as loan reports have to be broken up and reassembled.

As a solution, we strongly urge the CDFI Fund to accept any industry-standard geocoding service as the tool used to determine the census tract of any address used for CDFI-certification or annual reporting purposes. Of course, if the address is actually entered into CIMS as part of a program, the CIMS decision would be final, but where the Applicant can provide the census tract rather than the address, any industry-standard geocoding service should be permissible for determining that census tract.

General Application Requirements

Responsible Financing Practices

The new application introduces responsible financing requirements that include both required, prohibited and discouraged practices. Several of these practices require some combination of extra clarity and nuance in the treatment of what is acceptable for CDFI certification.

Reconsider Certain Prohibited Practices

We urge the CDFI Fund to reconsider some of the "bright line" practices related to mortgage lending in the Primary Mission test. Prohibited practices include interest-only payment provisions in respect to Home Equity Lines of Credit (HELOCs) secured by non-subordinate (first position) liens, as well as construction and bridge loans with terms longer than 12 months. First, construction and bridge loans should be altogether exempted as interest only loans are an industry standard because properties or projects do not generate revenue during construction or other interim project phases. Second, there are circumstances where these practices may be applied responsibly in consumer lending, such as when a borrower owns a property "free and clear" and seeks access to liquidity. If the CDFI Fund wishes to screen for harmful or predatory loans, it would be more logical to assign these provisions a narrative section where CDFIs may explain how the product benefits customers and supports legitimate market need.

Further, we request that the CDFI Fund clarify how the interest only standards apply to consumer versus commercial loans. Uncertainty arises because many CDFIs (regulated CDFIs in particular) are required to track and report loans based on the loan *collateral* rather than the *use of proceeds or the borrower entity* (see bank and credit union "Call reports"[2] as an example). It is therefore possible for a loan the CDFI Fund might consider to be a "consumer" loan to be tracked by the CDFI Fund as a "commercial" loan for other purposes.

Requests for Additional Clarity

Overdraft and Nonsufficient Funds Fees - We urge the CDFI Fund to clarify its standards for fees charged by depository CDFIs for providing financial services. Specifically, in its evaluation of "responsible" practices (which include an opportunity to submit a narrative explanation), the application addresses overdraft and nonsufficient funds fees. The application uses the word "excessive" without defining the term, and includes questions that allude to specific practices without explaining the consequences for answering a certain way (Questions PM 26 and PM 27). Depository CDFIs are eager to understand if otherwise legal and appropriately disclosed fees for service are included in the CDFI Fund's definition of "excessive." While there is legitimate discussion about the appropriate level and frequency of such fees, the application is not clear on what may or may not be considered responsible.

Balloon Mortgage Fees - We also urge the CDFI Fund to more clearly define acceptable practices related to balloon mortgages. For example, it is not clear under which, if any, circumstances mortgages with balloon payments will be disfavored if certain fees (such as appraisal fees) are charged, or if the CDFI does not limit application and origination fees when the mortgage is renewed and additional principal is advanced.

Military Annual Percentage Rate (vs) Standard Annual Percentage Rate (APR)

In the new application, the CDFI Fund requires Applicants to use the methodology prescribed in the Military Lending Act (referred to as the Military Annual Percentage Rate (MAPR), to determine the highest allowable APR for any of an Applicant's consumer loan products, regardless of covered borrower status. Despite clarifications that the CDFI Fund will require MAPR attestations only at the application stage and not in loan-level reporting, some portions of the CDFI industry remain deeply concerned about this requirement. MAPR remains non-standard for many CDFIs and applying MAPR can be operationally unworkable.

CDFIs require flexibility to manage risk. They are hindered by being held to non-standard benchmarks that cannot be practically implemented. We strongly urge the CDFI Fund to allow CDFIs to use the widely accepted Truth in Lending Act (TILA) standards for calculating APRs.

Low-Income Target Population Methodology

Applying LITP Methodology to Different Types and Stages of Projects

CDFIs require more detailed guidance on methods to document the income levels of the direct beneficiaries of early stage financing for affordable housing and community facilities projects. Examples of early stage financing include acquisition, predevelopment and construction lending.

[2] https://www.fdic.gov/resources/bankers/call-reports/index.html and https://ncua.gov/analysis/credit-union-corporate-call-report-data/call-report-forms-instructions-archive

For example, if an early stage project does not yet have any third party form of end-user income documentation, and is not included on the pre-approved LITP proxy list, what documentation can a CDFI submit to establish the use of funds? Examples might include:

- A borrower-signed commitment letter that outlines the intended income restrictions or beneficiaries to be served suffice as documentation of LITP
- For projects anticipating a pre-approved programmatic proxy such as HUD's HOME[3] or Section 8,[4] documentation such as a term sheet or letter of interest from a governmental entity that documents the likely intention to use that subsidy/proxy
- Census tract data for a project's location
- A social impact survey submitted at the time of closing
- Low Income Restriction Agreements (legal documents estimating the actual income of future affordable housing future residents)

Defining Low Income Target Populations

We respectfully urge the CDFI Fund to review the design and function of the "Low-Income Calculator" established for organizations to assess whether borrowers and program participants qualify as part of a Low-Income Targeted Population. The CDFI Fund appears to be defining low-income populations by *individual census tracts versus the historical and industry practice of metropolitan and nonmetropolitan areas*. It is much too limiting in light of the Fund's legislative statute, the Fund's previous materials, the definitions used by other federal agencies, and practical realities.

To qualify as a unit of a Low Income Target Population, an individual's family income needs to be 80% or less of the "area" median family income. The CDFI Fund's calculator currently defines the "area" as a "census tract." Yet this definition is much too limiting in light of the Fund's legislative statute, the Fund's previous materials, the definitions used by other federal agencies, and practical realities.

In its authorizing statute, 12 USC 4702[5] (part of the Riegle Community Development Act of 1994), "low-income" is defined as "an income, adjusted for family size, of not more than—

> **(A)** for metropolitan areas, 80 percent of the area median income; and
> **(B)** for nonmetropolitan areas, the greater of—
> > **(i)** 80 percent of the area median income; or
> > **(ii)** 80 percent of the statewide nonmetropolitan area median income."

This definition has served as the basis for the IRS's definition of eligible "targeted populations" as part of the New Markets Tax Credit program (see CFR 26.1 – sec 45D(e)(2). *It also was repeated in the CDFI Certification Application Guidance the Fund created in January 2024.*

Notably, the Department of Housing and Urban Development (HUD) annually calculates income eligibility thresholds for a variety of its programs. It documents those thresholds for each geography

[3] https://www.hud.gov/program_offices/comm_planning/home
[4] https://www.hud.gov/topics/housing_choice_voucher_program_section_8
[5] https://www.law.cornell.edu/uscode/text/12/4702

throughout the country[6] and *uses either the metropolitan area median (for urban areas) or the county median (for non-metropolitan areas).*

In short, there is no mention of census tracts as being the units of measurement for the calculation of individuals' income eligibility in any of these programs. We therefore request that the Fund clarify its LITP definition in the calculator to establish low-income eligibility as a portion of the respective metropolitan or nonmetropolitan area median income. This would keep the Fund's threshold consistent with its establishing statute, its historical threshold, and the approach that various public agencies have employed for decades.

LITP Proxy List

<u>Low Income Housing Tax Credits</u> - The list of pre-approved proxies (programmatic or organization) for Low-Income Target Populations does not include Low income Housing Tax Credits (LIHTC). This is despite the inclusion of other housing-related programs (such as HUD Public Housing and Section 8 Housing choice vouchers) and organizations (such as Homeless Service Providers) on the pre-approved list. This is despite HUD's own assessment that the LIHTC program is "the most important resource for creating affordable housing in the United States today,"[7] and the CDFI industry's widespread, and longstanding success partnering with conventional financial institutions in LIHTC investments across the country.

The absence of automatic recognition for LIHTC (even if at least 51% of units are affordable) puts CDFIs at a disadvantage to traditional banks. It risks stifling financing partnerships with deep value to LMI communities. This is especially true now that the new joint-agency Community Reinvestment Act (CRA) provides automatic "community development" consideration to banks for *any* financial activity or service made in support of a LIHTC qualified property.

In order to ensure the most correct and efficient recognition of CDFI efforts to support the development and preservation of affordable housing through LIHTC-related financing, we strongly urge the CDFI Fund to place LIHTC investment on the LITP preapproved "programmatic" proxy list.

<u>Mixed Income and Workforce Housing Developments</u> – CDFIs may also be placed at a disadvantage to traditional banks in the area of mixed income and workforce housing lending. Mixed income developments with less than 50% of units set-aside for low-income families may be counted by banks on a pro-rata basis as CRA eligible. Further, many housing projects seek to provide a mix of income accessibility in efforts to provide "workforce" housing alongside low-income targeted units, both to meet the varied needs of communities as well as to ensure that poverty is not concentrated. Such mixed-income tenancy is sometimes also necessary for the project to cash flow adequately. We urge the CDFI Fund to consider scenarios in which mixed-income and workforce housing projects can qualify under any of the preapproved LITP methodologies.

Low-Income Designated Credit Unions – The National Credit Union Administration (NCUA) designates credit unions that serve a membership that is majority low-income as Low-Income Designated Credit Unions.[8] The CDFI Fund should add this regulatory designation to the list of approved LITP organizational

[6] https://www.huduser.gov/portal/datasets/il.html#2023_query
[7] HUD Office of Policy Development and Research, https://www.huduser.gov/portal/datasets/lihtc.html
[8] Please see https://www.ecfr.gov/current/title-12/chapter-VII/subchapter-A/part-701/section-701.34

proxies as it is governed by federal regulations that are well-aligned with LITP definitions and the broader mission of the CDFI Fund to expand access for underserved people and communities.

Other Targeted Populations (OTP)

We urge the CDFI Fund to adjust its standards for designating a loan as serving an "Other Targeted Population." To designate a loan as serving an OTP, the guidance states that at least 50% of the individuals named as recipients in the Financial Product and/or Financial Services transaction agreement must be assessed as Hispanic, African American, Native American, Native Alaskan, Native Hawaiian, Other Pacific Islander, Filipino or Vietnamese. However, under current guidance, it appears that only facilities with a *single* group exceeding 50% will qualify, while those with diverse, *combined* ethic groups exceeding 50%, do not. In other words – for the CDFI Fund's purposes, OTPs must be segregated to qualify.

However, many community facility or affordable housing projects simultaneously serve more than one OTP-eligible race or ethnicity group that together exceed 50%. Yet, no single racial or ethnic group exceeds exceed 50%. To correct this, we request that the CDFI Fund clarify that a combination of two or more OTP eligible groups may meet the 50% requirement.

<u>*Financing Entity Test*</u>

Development Services

We urge the CDFI Fund to reconsider its approach to qualifying staff hours dedicated to development services in the Financing Entity test for unregulated CDFIs. The Financing Entity test requires CDFIs to demonstrate that their predominant business activity is the provision of arm's-length, on balance sheet Financial Products. While regulated CDFIs automatically meet the standards for this test, unregulated applicants must show that the plurality of both their assets and their staff time are dedicated to their Financial Products.

Unfortunately, the new CDFI Certification standards remove Development Services (i.e., training, counseling for borrowers and potential borrowers) staff activity for the purposes of the Financing Entity test and limit the definition of Development Services to only include structured trainings, counseling, or technical assistance services. These represent narrower standards than both the legislation and regulation allow.

The revised Development Services definition notably excludes development services staff engaged in broader training and technical assistance activities for the staffing component of the Financing Entity test. The CDFI Fund states these should be offered regularly and have a defined curriculum or written set of goals and objectives, with a link to the CDFI's Financial Products. These changes limit the ability of unregulated CDFIs to meet the predominant business activity requirements under the Financing Entity Test*.* Development services FTES should be counted towards the Financing Entity Test <u>**because**</u> they prepare borrowers to access a CDFIs Financial Products.

Finally, the Financing Entity test for new certifications will be applied on an annual basis, unlike the Target Market test, which can be based on a three-year rolling average. However, because the Financing

Entity test incorporates activities that occur on an ongoing basis, such as allocation of staff time, the difference in standards leads to an unequal treatment of CDFI types.

For example, under the new guidance, only the following staffing activities would qualify for consideration under the Financing Entity test. The remainder would be ineligible:

- Administrative costs that support the provision of Financial Products
- Direct staffing for the provision of Financial Products
- Marketing and outreach for the provision of Financial Products
- Fundraising/raising capital for the provision of Financial Products
- Other (explain)

We believe these changes are inconsistent with congressional intent and the CDFI Fund's own regulations. We recommend that the CDFI Fund adopt the following revisions that would reflect legislative intent, regulation, current CDFI business practices, and market needs:

- Allow unregulated CDFIs to exclude all Development Services activities, not just structured trainings and technical assistance, from calculations for the Financing Entity Test, and
- Re-align the Development Services Test with the legal definitions to be more inclusive of a broader range of borrower support activities.

CDFI Intermediaries

The CDFI sector is expecting an influx of grant funding from the Environmental Protection Agency's Greenhouse Gas Reduction Fund (GGRF) Clean Communities Investment Accelerator (CCIA) program. Many CDFI intermediaries will pass through significant dollar volumes of grant funding to CDFIs building and expanding green lending programs. This work is critical to bring the cost savings, health, and environmental benefits of clean energy to low-income and disadvantaged communities and CDFIs are explicitly target for participation in this program.

However, program intermediaries that are also certified as CDFIs, will require significant investments in staffing for grant management as well as training and outreach to ensure grantees are ready and able to use their grant funds to build and scale green lending programs. Under the current definitions, although this work will build the CDFI sector's lending capacity and is well-aligned with the CDFI Fund's mission, it will impede GGRF contracted CDFIs ability to comply with the Financing Entity Test.

Certification Standards to Allow CDFI Responsiveness in Times of Higher Need

In times of great need, some CDFIs pivot their financing activities to grant making to meet the needs of their communities. To recognize this, we recommend the CDFI Fund consider allowing unregulated applicants to use a three-year average when measuring their adherence to the Target Market component of the Financing Entity Test, as opposed to the current annual basis.

In addition to the GGRF example cited above, many CDFIs -- both intermediaries and non-intermediaries alike -- increase their grant making activity during periods of crisis, which could cause an applicant to fail the Financing Entity test for one year even if they have always met it historically. The CDFI Fund should allow CDFIs to meet a three-year average for the predominance test if an Applicant fails it during any given year. This is allowed for currently certified CDFIs in the Target Market test and would allow CDFIs to be responsive during periods of crisis without jeopardizing their certification status.

Off Balance Sheet Staffing

We recommend that the CDFI Fund reconsider how it directs CDFIs to count staff devoted to off balance sheet lending towards the Financing Entity test. While it is appropriate that the CDFI Fund require that a predominance of an applicant's *financial assets* are devoted to financing, the new guidance also limits the calculation to staff devoted to on-balance sheet lending for the purpose of the staffing component of the Financing Entity test.

A change is important since there are many valid reasons, often related to risk management and scale, to undertake mission-aligned off balance sheet lending. We recommend that the CDFI Fund consider the following:

- Allow CDFIs to include off balance sheet lending staff activity to be included in the calculation, or
- Alternatively, include staff assigned to off-balance sheet activities on the pre-approved disregarded list, so they don't negatively impact an applicant's Financing Entity staffing test by inflating the denominator.

Flexibility for Applicants that Meet the Financing Entity's Asset Test

We recommend that the CDFI Fund consider providing greater flexibility for unregulated CDFIs that meet the Asset Test portion of the Financing Entity Test to meet the requirements of the Staffing Test. Smaller CDFIs may have to allocate staff resources in ways that meet the broader community development mission, but vary between financing-related and other activities with market needs. For example, the staff of many CDFIs dedicate substantial time to offering development services as well as financial services. This dedication to customer success is what sets many CDFIs apart from traditional lenders. While the Staffing Test should remain in place to ensure that the staffing structure predominantly supports financing activity, we welcome conversations about the best way to ensure certification requirements meet the needs of smaller CDFIs.

Ongoing Challenges to the Certification of Community Development Venture Capital Funds (CDVCs)

We urge the CDFI Fund to engage with CDVC industry representatives to develop and publish a long-promised proposal and request for comments addressing barriers to CDVC certification. Notably, the Notice of Information Collection and Request for Public Comment published in the Federal Register on November 4, 2022 stated as follows:

> "Finally, the CDFI Fund is examining barriers to CDFI Certification that are unique to those CDFIs that are community development venture capital funds (CDVCs). In the coming months, the CDFI Fund will unveil a separate proposal, and request for comments, that address these barriers. While CDVCs may only comprise a small portion of the total number of Certified CDFIs, the CDFI Fund believes there is a vital need for equity in and among CDFI Investment Areas and Targeted Populations, and is working to ensure that mission-driven issuers of equity have equal access to CDFI Certification and associated benefits."

We note that such a proposal and request for comment were never unveiled and that the new certification standards still do not address the unique barriers to CDFI certification of community development venture capital funds. We urge the Fund to address these issues in conversation with the Community Development Venture Capital Alliance and CDVC fund practitioners.

Conclusion

We thank you for the opportunity to comment and look forward to continuing to work with you on these important matters. If you have questions, please contact Brian Blake, Chief Public Policy Officer, Community Development Bankers Association, at blakeb@pcgloanfund.org, or (202) 689-8935 ext. 225.

Sincerely,

Community Development Bankers Association (CDBA)
www.cdbanks.org

CDFI Coalition
www.cdfi.org

Community Development Venture Capital Alliance (CDVCA)
www.cdvca.org

Inclusiv
www.inclusiv.org

Opportunity Finance Network (OFN)
www.ofn.org

CC: Michelle Dickens, Program Manager, Certification Policy and Evaluation