



November 4, 2020

Tanya McInnis  
Program Manager, Office of Certification, Compliance, Monitoring Evaluation  
Community Development Financial Institutions (CDFI) Fund  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue NW  
Washington, D.C. 20220

RE: CDFI Program - Certification Application Request for Public Comments (OMB Number 1559-0028)

Dear Ms. McInnis:

The Local Initiatives Support Corporation (LISC) thanks the CDFI Fund for the opportunity to provide feedback on proposed changes to the CDFI Certification application. We appreciate the CDFI Fund's ongoing engagement with stakeholders and encourage Treasury to continue to work with the public as CDFI Certification policies and procedures are updated.

#### **D) General Comments**

Before we address specific questions posed in the Federal Register Notice, we have some general comments about CDFI Certification. As you know, the seven statutory criteria to become a certified CDFI have remain unchanged since the passage of the Riegle Act. These standards ensure that only mission-based lenders, which are accountable to their low-income clients and communities are able to achieve CDFI Certification. Robust CDFI Certification policies and procedures are vitally important to protecting the CDFI Certification standard and ensuring that only true mission-based lenders are able to access CDFI Fund and other resources, which use certification as an eligibility proxy for CDFI assistance. LISC supports the CDFI Fund's efforts to strengthen CDFI Certification application review policies and procedures.

We support the CDFI Fund's proposal to eliminate geographic restrictions on most Target Markets. Current practice requires CDFI Certification applicants to create maps around their Target Markets, which can result in CDFIs not receiving credit for activities outside of these places, which would otherwise be eligible. The current practice can inhibit CDFI financing activity due to administrative concerns on whether it will satisfy CDFI Certification and CDFI Fund award compliance requirements, which often mandate a certain percentage of activity in a CDFI's certified Target Market. This commonsense change will lower administrative burden for CDFIs and has the potential to increase impact.

LISC also supports incorporating the CDFI Certification application into the Awards Management Information System (AMIS) and linking it with the new CDFI Certification Transaction Level Report (CTLR). This will lower burden on CDFI Certification applications since it will reduce the number of application questions and overall public burden. We believe most of the proposed changes are positive since they strengthen the CDFI Certification standard and decrease applicant burden.

The CDFI Fund is proposing numerous changes which could impact the CDFI certification status of many organizations. LISC recommends that the CDFI Fund grandfather in existing certified CDFIs after the CDFI Certification application is finalized and allow a grace period of at least one year for organizations to make any changes necessary to maintain their certification.

## **II) Specific Comments**

The CDFI Fund is proposing changes to the Primary Mission, Financing Entity, Target Market, and Accountability sections of the CDFI Certification application. LISC offers the following specific recommendations on the proposed policy and review procedure changes.

### ***Primary Mission***

Per statute, a CDFI must have a “primary mission of promoting community development.” CDFI Fund regulations require that in “determining whether an Applicant has such a primary mission, the CDFI Fund will consider whether the activities of the Applicant are purposefully directed toward improving the social and/or economic conditions of underserved people and/or residents of economically distressed communities.” The CDFI Fund currently allows Applicants to meet this test by providing board-approved organizational documents along with a narrative statement demonstrating they have a primary mission of promoting community development, as well as a brief description of Financial Products/Financial Services offered.

The CDFI Fund is proposing new Primary Mission standards, which will require Affiliates of certified CDFIs that provide Financial Products and/or Financial Services to also demonstrate a Primary Mission of community development. The current process only looks at the certified CDFI and not Affiliates for non-depository applicants. The CDFI Fund is proposing to implement the new Primary Mission standard by reviewing the mission, community development strategy, and responsible financing practices of the certified CDFI applicant and each Affiliate providing Financial Products and/or Financial Services. Applicants must evidence their Primary Mission of promoting community development, and that of their Affiliate entities, through legal entity documents, bylaws, governing or managing board resolution, or owner resolution/directive.

### ***Recommendations:***

LISC supports efforts to strengthen the Primary Mission test and offers the following recommendations, which are primarily focused on incorporating Affiliates of CDFI Certification applicants into the review process:

- 1. A CDFI Certification Applicant or Affiliate whose mission is to serve underserved markets through approved federal government loan programs should be deemed to satisfy the Documenting Mission and Community Development Strategy test.** It’s not clear from the proposed CDFI Certification guidance if a CDFI Certification applicant or its Affiliate would meet the proposed Documenting Mission or Community Development Strategy components of the Primary Mission test if they were created solely for the purpose of serving underserved borrowers which can’t receive credit elsewhere. LISC recommends that CDFI Certification Applicants or Affiliates that provide specific federal loans which are directed by statute to underserved borrowers automatically meet the Documenting Mission and Community Development Strategy sections of the Primary Mission test. For instance, SBA 7a lenders are required to document that their loans went to businesses that couldn’t otherwise access the capital, and are typically eligible for Community Reinvestment Act credit. LISC believes that these program requirements should serve as a sufficient proxy for meeting the Documenting Mission and Community Development Strategy sections of the Primary Mission test.

2. **The CDFI Fund should consider the size or percentage of Financial Products and Financial Services of an Affiliate relative to the CDFI Certification Applicant (i.e, balance sheet, number of employees, percent of overall lending) such that an Applicant would not be found ineligible on the activities of a relatively small Affiliate.** Many CDFIs have Affiliates which provide specialized financing and services which may not necessarily specifically target low-income people and places, but may also only represent a very small part of the parent company's operations. Often, these Affiliates are created from their parent entity for legal and financial reasons. LISC recommends that Affiliates which reflect a small portion of a CDFI Certification applicant's overall Financial Product and/or Financial Services activity shouldn't hinder the ability of a CDFI Certification applicant for becoming or remaining certified. LISC recommends that the CDFI Fund exempt Affiliates which reflect less than 10 percent of their parent entity's annual Financial Product and/or Financial Service activity (as measured by volume of activity or commitment of staff resources) from the Primary Mission requirements.
3. **The CDFI Fund should exempt Affiliates of nonprofit CDFIs which distribute their profits to the CDFI Certification Applicant, as long as they can meet all facets of the Primary Mission test.** Some CDFI Affiliates are structured so that any annual profits are distributed to the parent entity to further their CDFI and community development mission. The CDFI Fund should exempt such Affiliates from the Primary Mission test since these entities further the capacity of the CDFI Certification applicant.

#### *Accountability*

Per statute, a CDFI must "maintain, through representation on its governing board or otherwise, accountability to residents of its Investment Area or Targeted Population." The current policy allows for Target Market accountability to be met through representation on a CDFI governing board and/or advisory boards, but also allows CDFIs to demonstrate accountability through other means, including collecting feedback through surveys. A CDFI with multiple Target Markets must meet the Accountability test for each Target Market it serves, separately.

The CDFI Fund is proposing that CDFIs may now only meet their accountability requirements through either governing boards or advisory boards as follows:

- Demonstrating that at least one Governing Board member is accountable to each proposed Target Market component and at least 33% of the governing board is accountable to the proposed Target Market overall; OR
- Demonstrating that at least one Advisory Board member is accountable to each proposed Target Market component; and
  - 60% of the Advisory Board is accountable to the proposed Target Market overall;
  - at least 20% of the Governing Board members are accountable to the proposed Target Market (with no specific representation required); and
  - at least one Governing Board member has a seat on the advisory board.
- Applicants without a formally established Governing Board must demonstrate that at least one Advisory Board member is accountable to each proposed Target Market component; at least 80% of the Advisory Board members are accountable to the proposed Target Market overall; and at least one partner/owner/management leader has a seat on the Advisory Board.

#### *Recommendation:*

LISC supports efforts to strengthen the Accountability test and offers the following recommendation:

1. **Allow consideration of local and geographic specific Advisory Boards for CDFIs which serve a regional or national Target Market.** The Accountability portion of the current CDFI certification application is much more qualitative than the new proposed standards. Although Advisory Board is not defined in the CDFI Fund's regulations, the proposed guidance would

restrict it to national Advisory Boards since it requires the Fund to consider “how the Advisory Board input is incorporated into the organization’s Governing Board’s decision-making process.” The CDFI Fund should allow local and geographic specific Advisory Boards to be included in the Accountability test’s standards for CDFIs serving regional, national, and geographic specific Target Markets, such as rural communities. These Advisory Boards ensure accountability to low-income people and places for local offices and rural activities of regional and national CDFIs.

### ***Financing Entity***

CDFIs are required to be financing entities and applicants must demonstrate that their predominant business activity is the provision of arm’s-length Financial Products and/or Financial Services. The CDFI Fund specifically requires that an applicant demonstrate a predominance of both its assets and staff time is for the direct provision of Financial Products and/or Financial Services.

### ***Recommendation:***

LISC believes that the predominance standards are appropriate for CDFI certification since an entity should demonstrate to the CDFI Fund that the majority of its business is for Financial Products and/or Financial Services. The current application standards though don’t allow the CDFI Fund any flexibility for maintaining an organization’s certification if it does not meet this test during their annual certification review. LISC believes flexibility is needed since many CDFIs often scale 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 currently certified 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.

We thank the CDFI Fund for the opportunity to offer suggestions and welcome opportunities to explore these and other possible improvements to CDFI Certification policies and procedures. Please contact Mark Kudlowitz ([mkudlowitz@lisc.org](mailto:mkudlowitz@lisc.org)), LISC Policy Director, if you need additional clarification or follow up on any of the recommendations provided in this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Matt Josephs".

Matt Josephs  
Senior Vice President for Policy